



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TROPHY ENTERPRISES LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FFT

Introduction

On April 7, 2021, the Tenant made an Application for Dispute Resolution seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing with B.K. attending as counsel for the Tenant. P.F. attended the hearing as an agent for the Landlord. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so. All parties acknowledged these terms. As well, all parties in attendance, with the exception of B.K., provided a solemn affirmation.

B.K. advised that the Notice of Hearing and evidence package was served to the Landlord by email on April 9, 2021, and P.F. confirmed that the Landlord received this package. As well, she took no position with respect to how this package was served and she was prepared to respond to this dispute. As such, I am satisfied that the Landlord was duly served the Notice of Hearing and evidence package. Consequently, I have accepted all of this evidence and will consider it when rendering this Decision.

P.F. advised that the Landlord's evidence was served to the Tenant by posting it to her door on July 6, 2021 and emailed to the Tenant's counsel on that same date. B.K. confirmed that the Tenant received this evidence. As this evidence was served in accordance with the timeframe requirements of the Rules of Procedure, I have accepted all of this evidence and will consider it when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- Is the Tenant entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on July 1, 2017, that rent was established currently at an amount of \$932.00 per month, and that it was due on the first day of each month. A security deposit of \$437.50 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence for consideration.

Submissions were made by the parties with respect to the issues in this Application; however, the parties engaged in settlement discussions.

Settlement Agreement

I raised the possibility of settlement pursuant to Section 63(1) of the *Act* which allows an Arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary, that if they chose not to discuss settlement I would make a final and binding Decision on the matter, and that if they chose to discuss settlement and did not come to an agreement, that I would make a final and binding Decision on the matter.

I advised the parties that if they did come to an agreement, I would write out this agreement in my written Decision and make any necessary Orders. I also explained that the written Decision would become a final and legally binding agreement. The parties did not have questions about discussing a settlement when asked.

The parties reached the following full and final settlement agreement during the hearing:

1. The Tenant will remain in possession of the rental unit but must give up vacant possession of the rental unit on **October 31, 2021 at 1:00 PM**.
2. The Notice of March 30, 2021 is cancelled and of no force or effect.
3. If condition 1 is breached, the Landlord is granted an Order of Possession that will be effective after service of the Order on the Tenant.

As a note, rent must continue to be paid in accordance with the terms of the tenancy agreement until the end of tenancy. As well, both parties advised that they would engage in discussions about potentially enforcing the Order of Possession on a later date should the parties mutually agree. They were also cautioned that a prolonged delay in the service of the Order of Possession may result in the Landlord being unable to enforce this as a Writ of Possession.

This settlement agreement was reached in accordance with Section 63 of the *Act*. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that they understood the binding nature of the settlement of these disputes.

Conclusion

The parties reached a full and final settlement agreement in resolution of these disputes. I have recorded the terms of settlement in this Decision and in recognition with the settlement agreement, based on the above, the Landlord is granted a conditional Order of Possession effective on **October 31, 2021 at 1:00 PM** after service of the Order on the Tenant if the Tenant fails to comply with condition 1 of this settlement agreement. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 26, 2021

Residential Tenancy Branch