



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1060606 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR-PP, MNR-DR, FFL; CNR, CNC

Introduction

This hearing dealt with the landlord's application against the tenant company, pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for his application, pursuant to section 72.

This hearing also dealt with the individual tenant's application against the landlord, pursuant to the *Act* for:

- cancellation of the landlord's Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, April 14, 2021 ("10 Day Notice"), pursuant to section 46; and
- cancellation of the landlord's One Month Notice to End Tenancy for Cause, dated April 14, 2021 ("1 Month Notice"), pursuant to section 47.

The landlord's agent and the individual tenant ("tenant") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. This hearing lasted approximately 66 minutes.

The landlord's agent confirmed she was the property manager for the landlord named in this application and that she had permission to speak on his behalf. The landlord provided a signed, written authorization letter, dated May 12, 2021, with this application. The tenant confirmed that she had permission to speak on behalf of the tenant company named in this application (collectively "tenants").

Both parties confirmed receipt of other party's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that both parties were duly served with the other party's application.

At the outset of this hearing, I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties affirmed that they were ready to proceed with the hearing and settle both applications. Neither party made any adjournment or accommodation requests.

At the end of this hearing, I informed the landlord's agent and the tenant that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch *Rules of Procedure*. The landlord's agent and the tenant both affirmed, under oath, that they did not record this hearing.

During the hearing, the landlord's agent asked for the tenants' forwarding address, since the tenant stated that she was staying in Florida and unable to return to Canada, due to the covid-19 restrictions. The tenant stated that she could not provide a forwarding address to the landlord because she had to check with her lawyer first to determine which forwarding address to provide. I informed both parties to review sections 38 and 39 of the *Act*, since both parties confirmed that the landlord continues to hold the tenants' security and pet damage deposits and the tenants have not yet provided a forwarding address to the landlord.

Settlement Terms

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision and orders. During the hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that this tenancy will end by 2:00 p.m. on August 28, 2021, by which time the tenants and any other occupants will have vacated the rental unit and the tenants will have removed their car from the rental unit parking spot;
2. Both parties agreed that the landlord's agent will pick up the tenants' keys and FOBS for the rental property from the concierge at the rental building at 2:00 p.m. on August 28, 2021;
3. Both parties agreed that the landlord's 10 Day Notice, dated April 14, 2021, and 1 Month Notice, dated April 14, 2021, are cancelled and of no force or effect;

4. Both parties agreed that the tenant company will pay the landlord \$24,000.00 by January 15, 2022, by direct deposit to the landlord's bank account according to the following terms:
 - a. The above \$24,000.00 amount includes unpaid rent of \$6,000.00 for each month of August 2020, June 2021, July 2021 and August 2021;
 - b. During this hearing, the tenant confirmed that she had the correct bank account number for the landlord, in order to facilitate the above payment;
5. The landlord agreed to bear the cost of the \$100.00 filing fee paid for his application;
6. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both applications at this hearing;

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed at the hearing that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute.

During the hearing, I repeatedly confirmed the above settlement terms with the tenant. The tenant repeatedly affirmed, under oath, that she was agreeable to the above settlement terms and that she understood they were legal, final, binding and enforceable. The tenant repeatedly affirmed, under oath, that she agreed and understood that she could not change the settlement terms after the hearing was over and that she knew it was a full and final settlement of both applications.

The tenant repeatedly affirmed, under oath, that she was agreeable to and understood that two legal and binding Court orders would be issued to enforce the above settlement. The order of possession has been issued against both tenants, since the tenant is an individual and agreed at the hearing to vacate the property. The monetary order has been issued against the tenant company only, since the landlord filed his monetary application against the tenant company only, not the individual tenant.

The tenant was given ample time to discuss and review the terms of this settlement and to ask questions about the above terms. I repeatedly informed the tenant that I could not provide legal advice to either party, as my role as an Arbitrator was to make decision or record a settlement agreement between the parties. The tenant confirmed her understanding of same. This hearing lasted 66 minutes in order to facilitate the tenant's repeated questions and comments.

The terms and consequences of the above settlement were reviewed in detail, with both parties during the lengthy 66-minute hearing. Both parties had opportunities to ask questions and to negotiate and discuss the settlement terms in detail. Both parties affirmed under oath that they fully understood the above settlement terms and were agreeable to them.

Conclusion

I order both parties to comply with all of the above settlement terms. The landlord's 10 Day Notice, dated April 14, 2021, and the landlord's 1 Month Notice, dated April 14, 2021, are cancelled and of no force or effect.

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue the attached Order of Possession effective at 2:00 p.m., on August 28, 2021, to be used by the landlord **only** if the tenant(s) do not abide by condition #1 of the above settlement. The tenant(s) must be served with a copy of this Order. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties and as discussed with them during the hearing, I issue a monetary Order in the landlord's favour in the amount of \$24,000.00 against the tenant company. I deliver this Order to the landlord in support of the above agreement for use only in the event that the tenant company does not abide by condition #4 of the above agreement. The tenant company must be served with a copy of this Order. Should the tenant company fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The landlord must bear the cost of the \$100.00 filing fee paid for his application.

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: August 24, 2021

Residential Tenancy Branch