



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, FFT

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's One Month Notice to End Tenancy for Cause, dated April 25, 2021 ("1 Month Notice"), pursuant to section 47;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord, the landlord's advocate, the two tenants, and the tenants' advocate 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 21 minutes.

The landlord confirmed that his advocate had permission to speak on his behalf. The two tenants confirmed that their advocate had permission to speak on their behalf.

At the outset of this hearing, I informed both parties that they were not permitted to record this hearing, as per Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure*. The landlord, the landlord's advocate, the two tenants, and the tenants' advocate all affirmed under oath that they would not record this hearing.

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 confirmed that they were ready to proceed with this hearing, they wanted to settle this application, and they did not want me to make a decision. Neither party made any adjournment or accommodation requests.

The landlord was in receipt of the tenants' application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' application.

The tenants confirmed receipt of the landlord's 1 Month Notice, with an effective move-out date of May 31, 2021. In accordance with sections 88 and 90 of the *Act*, I find that both tenants were duly served with the landlord's 1 Month Notice.

During this hearing, both parties confirmed that the tenants received the landlord's Two Month Notice to End Tenancy for Landlord's Use of Property, dated July 28, 2021 ("2 Month Notice") for the landlord to personally occupy the rental unit. A copy of the notice was provided for this hearing. Both parties agreed that the effective move-out date on the notice is September 30, 2021. In accordance with sections 88 and 90 of the *Act*, I find that both tenants were duly served with the landlord's 2 Month Notice.

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, except for the filing fee.

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

1. Both parties agreed that this tenancy will end by 1:00 p.m. on September 30, 2021, by which time the tenants and any other occupants will have vacated the rental unit;
2. Both parties agreed that this tenancy is ending pursuant to the landlord's 2 Month Notice, dated July 28, 2021;
3. Both parties agreed that the tenants are entitled to one-month free rent compensation pursuant to the 2 Month Notice and section 51 of the *Act*, according to the following term:
 - a. Both parties agreed that the tenants are not required to pay rent to the landlord for the period from September 1 to 30, 2021;
4. The landlord agreed that his 1 Month Notice, dated April 25, 2021, is cancelled and of no force or effect;

5. Both parties agreed that the tenants' security deposit of \$600.00 and pet damage deposit of \$600.00 are to be dealt with at the end of this tenancy in accordance with section 38 of the *Act*;
6. The landlord agreed that he will not seek any damages related to soil remediation or the oil leak from under the tenants' car at the rental property;
7. The tenants agreed that this settlement agreement constitutes a final and binding resolution of their application at this hearing, except for the filing fee.

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

The terms and consequences of the above settlement were reviewed in detail, with both parties during this 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 agreed and understood that they could not change the settlement terms after the hearing was over and they knew it was a full and final settlement of this application, except for the filing fee.

As both parties were unable to settle the filing fee claim, the tenants asked that I make a decision about it. A filing fee is a discretionary award issued by an Arbitrator usually after an applicant party is fully successful on the merits of their application after a full hearing is held and a decision is made. As both parties settled this application and I was not required to make a decision on the merits of the tenants' application, I dismiss the tenants' claim to recover the \$100.00 filing fee from the landlord, without leave to reapply. I informed both parties of my decision during this hearing and they confirmed their understanding of same.

Conclusion

I order both parties to comply with all of the above settlement terms.

I order that the tenants are not required to pay rent to the landlord for the period from September 1 to 30, 2021.

To give effect to the settlement reached between the parties and as advised to them during the hearing, I issue the attached Order of Possession to be used by the landlord **only** if the tenant(s) and any other occupants fail to vacate the rental premises by 1:00 p.m. on September 30, 2021. The tenant(s) must be served with 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.

The tenants' application to recover the \$100.00 filing fee is dismissed without leave to reapply.

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 30, 2021

Residential Tenancy Branch