



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW HEARING DECISION

Dispute Codes CNR, OLC, FFT, OPR, OPC, MNRL, FFL

Introduction

This review hearing was ordered by pursuant to a Review Consideration decision issued on September 2, 2021 whereby the tenant's request for a review hearing was granted on the basis he was unable to attend the original hearing on August 16, 2021 due to circumstances that were unanticipated and beyond his control.

Both parties appeared and/or were represented for the review hearing. The parties were affirmed and the parties were ordered to not record the proceeding.

I informed the parties that the purpose of the review hearing was to determine whether the original decision and orders of August 16, 2021 should be upheld, set aside, or varied. On August 16, 2021 an Arbitrator granted the landlord's request for an Order of Possession due to unpaid rent and provided the landlord a Monetary Order for recovery of the filing fee. The Arbitrator also dismissed the tenant's application for cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent and orders for compliance without leave to reapply; and, the Arbitrator dismissed the landlord's application for an Order of Possession for cause with leave to reapply.

During the review hearing, the parties turned their minds to resolving their disputes by way of a mutual agreement. I have recorded the parties' mutual agreement by way of this decision and the orders that accompany it. The mutual agreement is different than the outcome of the August 16, 2021 hearing. As such, I set aside the decision and orders of August 16, 2021 and they are replaced with this review hearing decision and the orders that accompany this review hearing decision.

Issue(s) to be Decided

What are the terms of the mutual agreement?

Background and Evidence

During the hearing, the parties mutually agreed to the following terms in resolution of their disputes:

1. The tenancy shall end no later than November 30, 2021 conditional upon the tenant pay rent in full and on time for the months of October 2021 and November 2021. The landlord is provided an Order of Possession effective November 30, 2021 that may be served and enforced in any circumstance.
2. Further to the above, the tenant is required to pay \$1350.00 for October 2021 rent on or before October 1, 2021 and the tenant is required to pay \$1350.00 for November 2021 rent on or before November 1, 2021. The landlord shall be provided a conditional Order of Possession effective two (2) days after service. The conditional Order of Possession may only be served and enforced in the event the tenant fails to pay October 2021 rent of \$1350.00 on or before October 1, 2021 or fails to pay \$1350.00 for November 2021 rent on or before November 1, 2021.
3. The tenant is at liberty to end the tenancy earlier than November 30, 2021 by giving the landlord notice to end tenancy.
4. For the remainder of the tenancy the tenant shall not smoke inside the rental unit. If the tenant smokes outside on the residential property the tenant shall ensure the door(s) and window(s) of the rental unit are closed.

Analysis

Pursuant to section 63 of the Act, I have the authority to assist parties in reaching a settlement agreement during the hearing and to record the agreement in the form of a decision or order.

I have accepted and recorded the mutual agreement reached by the parties during this hearing and I make the term(s) an Order of mine to be binding upon both parties.

In recognition of the mutual agreement, I provide the landlord with two Orders of Possession, as described below:

- an Order of Possession effective November 30, 2021 that may be served and enforced in any circumstance; and,
- a conditional Order of Possession that may only be served and enforced in the event the tenant fails to pay \$1350.00 for October 2021 rent on or before October 1, 2021 or fails to pay \$1350.00 for November 2021 rent on or before November 1, 2021.

Conclusion

The decision and orders of August 16, 2021 are set aside and no longer enforceable. By way of this review consideration decision, I have recorded the parties' mutual agreement reached in resolution of their disputes and I provide the landlord with orders that reflect the parties' mutual agreement.

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: September 29, 2021

Residential Tenancy Branch