



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC-MT, FFT

Introduction

On July 6, 2021, the Tenants applied for a Dispute Resolution proceeding 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*.

Both Tenants attended the hearing. D.F. attended the hearing and advised that he was the owner/Landlord of the rental unit. As well, J.E. attended the hearing as an agent for the Landlord. The Style of Cause on the first page of this Decision has been amended to reflect that D.F. is the owner/Landlord of the rental unit.

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 in attendance provided a solemn affirmation.

Tenant A.B. advised that she served the Notice of Hearing package to J.E. by hand on July 24, 2021 and J.E. confirmed that he received this package. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was sufficiently served with the Notice of Hearing package.

D.F. advised that the Tenants were served with the Landlord's evidence by registered mail on August 20, 2021 and A.B. confirmed that they received this evidence. As this evidence was served in accordance with the timeframe requirements pursuant to Rule 3.15 of the Rules of Procedure, I am satisfied that the Tenants were served with the Landlord's evidence. As such, this evidence will be accepted and considered 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

- Are the Tenants entitled to have the Notice cancelled?
- Are the Tenants entitled to be granted more time to have the Notice cancelled?
- If the Tenants are unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- Are the Tenants 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.

Neither party could agree on when the tenancy started. D.F. advised that it was approximately 2013, whereas A.B. advised that it started 13 years ago. They did agree that rent was currently established at an amount of \$1,024.00 per month; however, D.F. stated that it was due on the first day of each month and A.B. stated that it was due on

the last day of each month. D.F. had no idea if a security deposit was paid or not but A.B. stated that one of \$500.00 was in fact paid. D.F. advised that a written tenancy agreement was never completed with the Tenants.

All parties agreed that the Notice was served to the Tenants by hand on June 22, 2021. The Notice indicated that the effective end date of the tenancy was July 31, 2021.

Submissions were made by the Tenants with respect to a request for more time to dispute the Notice; 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 Landlord is granted a conditional Order of Possession effective at **1:00 PM on September 30, 2021** after service of the Order on the Tenants.
2. The Tenants will pay September 2021 rent to the Landlord in the amount of **\$1,024.00**.

If condition two is not satisfactorily complied with, the Landlord is granted a Monetary Order in the amount of **\$1,024.00**. This Order is enforceable only if the Tenants fail to comply with the payment requirements set forth in the settlement above.

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 the dispute on this Application.

Conclusion

The parties reached a full and final settlement agreement in resolution of this dispute. 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 at **1:00 PM on September 30, 2021** after service of the Order on the Tenants. Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

As well, I provide the Landlord with a conditional Monetary Order in the amount of **\$1,024.00** to serve and enforce upon the Tenants, if necessary. The Order must be served on the Tenants by the Landlord. Should the Tenants 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.

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 2, 2021

Residential Tenancy Branch