



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LRE CNC OLC FFT

Introduction

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

- cancellation of the landlord's One Month Notice to End Tenancy for Cause (the "**One Month Notice**") pursuant to section 47;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Amendment of Tenant's Application

At the outset of the hearing, the tenant advised me that he had also received a Two Month Notice to End Tenancy for Landlord's Use of Property (the "**Two Month Notice**") from the landlord. He stated that he understood that, as he had already made this application, the validity of the Two Month Notice would be dealt with at the present hearing. He did not file an amendment to this application in advance of the hearing.

The landlord stated that he would also like to address the validity of the Two Month Notice at this hearing.

As such, and with the consent of the parties, I ordered that the application be amended to include a claim to cancel the Two Month Notice.

Settlement

Pursuant to section 63 of the Act, an 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 or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, 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:

1. The tenant will vacate the rental unit on or before November 30, 2021.
2. The tenant will pay the outstanding October 2021 rent (\$2,000) on or before October 22, 2021.
3. The tenant does not have to pay any rent for November 2021.
4. The landlord will not arbitrarily deduct any amount from the security deposit, but rather will follow all procedures set out in the *Residential Tenancy Act* for claiming against the security deposit.
5. The tenant will not remove any of the landlord's possessions from the rental unit when he vacates.

These particulars comprise the full and final settlement of all aspects of this dispute. The parties gave verbal affirmation at the hearing that they understood and agreed to the above terms as legal, final, and binding, which settle all aspects of this dispute between them.

The tenant also made submissions as to the landlord's conduct. He stated that the landlord sent him racist, and abusive text messages in which he threatened to contact the RCMP and the immigration board and accused the tenant and his family of drug trafficking. He stated that he was deeply hurt and offended by these text messages and he denied the allegations contained therein.

The landlord did not deny sending these text messages, rather he explained that the day before sending them he had conducted an inspection of the rental unit and was "deeply hurt" by the condition he found it in. He stated that this discovery, coupled with his financial stress, caused him to send the hurtful text messages. He acknowledged that he was wrong to have sent them and apologized. I also note that the day after sending them he texted the landlord with an apology.

I asked the tenant what relief, if any, he sought in connection with these text messages. He stated that he did not have any specific relief in mind but wanted me to apply "the laws of Canada" with regards to these text messages. I advised him that the scope of my authority is restricted to the Act, and that I do not have the authority to apply slander or libel laws, the criminal code, any law relating to hate speech or breaches of human rights. I advised him that another forum (such as the courts, or the Human Rights Tribunal) might be an appropriate forum to deal with these issues. I make no orders related to these issues and the above some agreement settlement agreement does not purport to resolve any of the claims arising from the text messages outside the scope of the Act.

Technical Issues at Hearing

The tenant was disconnected from the call at 11:55 am. At this time the parties had agreed to all material terms of the settlement agreement set out above. They were in the midst of discussing when the October rent would be payable. After the tenant was disconnected, the landlord advised me that he would like rent payable by October 22, 2021. I advised him that I could not order that the rent be paid by that date absent the tenants' consent. We waited on the line until 12:00 pm, but the tenant did not call in by that time. I advised the landlord that I would order that the October rent would be payable "as soon as reasonably possible". We then both disconnected from the hearing. Three minutes later, I noticed in my teleconference software that the tenant had reconnected to the hearing. I called back into the hearing and advised the tenant the landlord would like the rent paid by October 22, 2021. The tenant agreed to pay the rent by that date. He then disconnected.

Conclusion

As the parties have reached a settlement, I make no factual findings about the merits of this application.

To give effect to the settlement reached between the parties, and as discussed at the hearing, I issue:

- 1) An order of possession which requires that the tenant to provide vacant possession of the rental unit to the landlord by 1:00 pm on November 30, 2021.
- 2) A monetary order ordering the tenant to pay the landlord \$2,000 by October 22, 2021.

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: October 12, 2021

Residential Tenancy Branch