



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WHAG International Ltd and [tenant
name suppressed to protect privacy]

DECISION

Dispute Codes MNR-DR, OPR-DR, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution by Direct Request (the Application) filed by the Landlord on September 21, 2021, under the *Residential Tenancy Act* (the Act), seeking:

- An Order of Possession based on an undisputed 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice);
- Recovery of unpaid rent and utilities, and
- Recovery of the filing fee.

On November 12, 2021, an adjudicator rendered a decision with regards to the Application, convening it as a participatory hearing to be held before me. The hearing was convened by telephone conference call and was attended by the Landlords and the Tenants. All parties provided affirmed testimony. The Tenants acknowledged receipt of the Notice of Dispute Resolution Proceeding Package from the Landlords, which contains a copy of the Application and the Notice of Hearing, and raised no concerns with regards to timing or service method. As a result, I found that the Tenants had been served in accordance with the *Act* and the Rules of Procedure and the hearing proceeded as scheduled.

The parties were advised that pursuant to rule 6.10 of the Rules of Procedure, interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The parties were asked to refrain from speaking over one another and to hold their questions and responses until it was their opportunity to speak. The Parties were also advised that pursuant to rule 6.11 of the Rules of Procedure, recordings of the proceedings are prohibited, except as allowable under rule 6.12, and the parties confirmed that they were not recording the proceedings.

At the request of the parties, copies of the decision and any orders issued in their favor will be emailed to them at the email addresses confirmed in the hearing.

Settlement

The opportunity for settlement was discussed with the parties during the hearing. The parties were advised on several occasions during the hearing that there is no obligation to resolve the dispute through settlement, but that pursuant to section 63 of the *Act*, I could assist the parties to reach an agreement, which would be documented in my Decision and supporting Orders.

During the hearing, the parties mutually agreed to settle this matter as follows:

1. The parties agree that rent in the amount of \$1,866.00 is currently due each month under the tenancy agreement, not including any rent owed to the Landlords by the Tenants for rental of 25 acres of farmland under a separate farmland lease agreement.
2. The parties agree that the Tenants owes \$5,598.00 in outstanding rent under the tenancy agreement, excluding any rent owed under a separate farmland lease agreement, to the Landlords for the rental period up to and including December 31, 2021.
3. The parties agree that the Landlord is therefore entitled to a Conditional Monetary Order, referred to as Conditional Monetary Order #1, in the amount of \$5,598.00, to be served and enforced on the Tenants only if the following payment schedule is not complied with by the Tenants.
4. The parties agree that if the Tenants make the following payments, which will go towards the outstanding rent listed above and constitute payments for the continuing rent owed under the tenancy agreement, the tenancy may continue until February 28, 2021, at 1:00 P.M. at which time the Tenants agrees to vacate the rental property:
 - a. \$1,500.00 on or before 11:59 P.M. on December 23, 2021;
 - b. \$1,500.00 on or before 11:59 P.M. on January 15, 2022;
 - c. \$1,500.00 on or before 11:59 P.M. on January 30, 2022;
 - d. \$1,500.00 on or before 11:59 P.M. on February 15, 2022; and
 - e. \$1,500.00 on or before 1:00 P.M. on February 28, 2022.
5. The parties agree that the Landlords are therefore entitled to an Order of Possession effective 1:00 P.M. on February 28, 2022, to be served on the Tenants as soon as possible.
6. At the end of the tenancy the Tenants agree to pay the Landlords the balance owed for rent, which is to be calculated as follows: \$5,598.00 for outstanding rent

owed for the period up to and including December 31, 2021, plus any rent owed for January and/or February of 2022 at \$1,866.00 per month, less any amounts paid by the Tenants between the date of the hearing and the end of the tenancy. If the tenancy continues until February 28, 2022, as set out under this agreement, the outstanding balance should be \$1,830.00 and the parties agree that the Landlord is therefore entitled to a Conditional Monetary Order in this amount.

7. The Landlords understand and agree that if the tenancy ends early, and therefore less than \$1,830.00 set out in Conditional Monetary Order #2 is owed for rent by the Tenants at the time the tenancy ends, they may only enforce the lesser amount of rent actually owed, not the full \$1,830.00 set out in Conditional Monetary Order #2.
8. The parties agree that if the Tenants fail to abide by the payment schedule set set out under section 4 of this mutual settlement agreement, they will be considered to have breach both a material term of the tenancy agreement and the terms of this settlement agreement, and that in such a case, the tenancy will be terminated by the Landlords two days after service of the attached Conditional Order of Possession.
9. The parties agree that the two day Order of Possession is not to be served or enforced by the Landlords unless the Tenants fail to comply with the payment arrangements set out under section 4 of the settlement agreement.
10. The parties agree that the security deposit is to be dealt with at or after the end of the tenancy and in accordance with the Act.
11. The Landlords agrees to withdraw their Application in full as part of this settlement agreement.

Conclusion

In support of the settlement described above, and with the agreement of the parties, I grant the Landlord two orders of possession as follows:

- An Order of Possession effective at 1:00 P.M. on February 28, 2022; and
- A Conditional Order of Possession effective two days after service on the Tenants.

The Landlords are provided with the Order of Possession effective February 28, 2022, in the above terms, and the Tenants must be served with **this Order** as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlords are also provided with the Conditional Order of Possession effective two days after service on the Tenant. This Order **must** be read in conjunction with this settlement agreement and the Landlords **must not** serve or seek to enforce this Order on the Tenants **unless** the Tenants fail to meet the payment schedule set out under section 4 of the settlement agreement. Should the Tenants fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court. If the Tenants comply with the payment schedule set out under section 4 of the settlement agreement, the two day Order of Possession is deemed to be of no force or effect.

In support of the settlement described above, and with the agreement of the parties, I grant the Landlords two Conditional Monetary Orders as follows:

- A Conditional Monetary Order in the amount of **\$5,598.00** (titled Conditional Monetary Order #1); and
- A Conditional Monetary Order in the amount of **\$1,830.00** (titled Conditional Monetary Order #2).

The Landlords are provided with Conditional Monetary Order #1, in the above terms, and this Order **must** be read in conjunction with the settlement agreement. The Landlords **must not** serve or seek to enforce this Order on the Tenants unless the Tenants fail to comply with the payment schedule set out under section 4 of the settlement agreement. Should the Tenants fail to comply with this Order, this Order may be filed in the Small Claims Court of British Columbia and enforced as an Order of that Court. If the Tenants comply with the payment schedule set out under section 4 of the settlement agreement, Conditional Monetary Order #1 is deemed to be of no force or effect.

The Landlords are provided with Conditional Monetary Order #2, in the above terms, and this Order **must** be read in conjunction with the settlement agreement. The Landlords **must not** serve or seek to enforce this Order on the Tenants unless there is an outstanding rent balance owed at the end of the tenancy. 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. If the Tenants do not have an outstanding rent balance at the end of the tenancy, Conditional Monetary Order #2 is deemed to be of no force or effect.

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: December 15, 2021

Residential Tenancy Branch