



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, MNDCT, FFT; CNC, OLC, MNDCT, LRE, FFT

Introduction

This hearing dealt with the tenant's first application, filed on September 2, 2021, pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, September 1, 2021 ("10 Day Notice"), pursuant to section 46;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 62;
- a monetary order for \$200.00 for hearing-related costs under the *Act*, *Regulation* or tenancy agreement, pursuant to section 62;
- authorization to recover the \$100.00 filing fee for his application, pursuant to section 72.

This hearing also dealt with the tenant's second application, filed on October 25, 2021, pursuant to the *Act* for:

- cancellation of the landlord's One Month Notice to End Tenancy for Cause, dated October 16, 2021 ("1 Month Notice"), pursuant to section 47;
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62;
- a monetary order for \$267.76 for hearing-related costs under the *Act*, *Regulation* or tenancy agreement, pursuant to section 62;
- an order restricting the landlord's right to enter the unit, pursuant to section 70;
- authorization to recover the \$100.00 filing fee for his application, pursuant to section 72.

The landlord, the landlord's agent, the landlord's lawyer, and the tenant 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 105 minutes from 11:00 a.m. to 12:45 p.m.

The landlord confirmed his name and spelling. He said that he owns the rental unit. He confirmed that his agent and lawyer and permission to speak on his behalf at this hearing. The landlord's lawyer confirmed his name, spelling, and provided his email address for me to send this decision to the landlord after the hearing.

The tenant confirmed his name and spelling. He provided his email address for me to send this decision to him after the hearing.

At the outset of this hearing, I informed both parties recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch *Rules of Procedure*. All participants affirmed that they would not record this hearing.

At the outset of this hearing, I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. Both parties had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests. Both parties confirmed that they were ready to proceed, they wanted to settle both applications, and they did not want me to make a decision.

The landlord's lawyer confirmed receipt of the tenant's two applications for dispute resolution hearing packages. The tenant confirmed receipt of the landlord's evidence. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's two applications and the tenant was duly served with the landlord's evidence.

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.

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

1. Both parties agreed that this tenancy will end by 1:00 p.m. on February 28, 2022, by which time the tenant and any other occupants will have vacated the rental unit;

2. The landlord agreed that his 10 Day Notice, dated September 1, 2021, and 1 Month Notice, dated October 16, 2021, are cancelled and of no force or effect;
3. The landlord agreed to pay the tenant \$1,500.00 total for moving expenses, according to the following terms:
 - a. The landlord will provide a cheque to the tenant for \$750.00 by January 14, 2022;
 - b. The landlord will provide a cheque to the tenant for \$750.00, when the tenant vacates the rental unit by 1:00 p.m. on February 28, 2022;
4. The tenant agreed that this settlement agreement constitutes a final and binding resolution of his monetary claims in both applications, totalling \$467.76, and agreed that he will not initiate any future claims or applications against the landlord, with respect to these issues;
5. The tenant agreed to bear the costs of two \$100.00 filing fees, totalling \$200.00, paid for both his applications;
6. The tenant agreed that this settlement agreement constitutes a final and binding resolution of both his applications at this hearing;

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

During this hearing, I repeatedly confirmed the above settlement terms with the tenant. The tenant repeatedly affirmed, under oath, that he was agreeable to the above settlement terms and that he understood they were legal, final, binding and enforceable. The tenant repeatedly affirmed, under oath, that he agreed and understood that he could not change the settlement terms after the hearing was over and that he knew it was a full and final settlement of both his applications. This hearing lasted longer at approximately 105 minutes, due to the tenant's repeated questions, comments, and revoking offers.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this lengthy 105-minute 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 fully understood the above settlement terms and were agreeable to them.

The landlord was given additional time to discuss and review the above settlement terms privately with his lawyer and agent. The tenant was given ample time to privately review the above settlement terms.

Conclusion

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

The landlord's 10 Day Notice, dated September 1, 2021, and 1 Month Notice, dated October 16, 2021, are cancelled and of no force or effect.

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue the attached Order of Possession effective at 1:00 p.m., on February 28, 2022, to be used by the landlord **only** if the tenant does not abide by condition #1 of the above settlement. The tenant must be served with a copy of this Order. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties and as discussed with them during the hearing, I issue a monetary Order in the tenant's favour in the amount of \$1,500.00. I deliver this Order to the tenant in support of the above agreement for use only in the event that the landlord does not abide by condition #3 of the above agreement. The landlord must be served with a copy of this Order. Should the landlord 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.

The tenant must bear the cost of the two \$100.00 filing fees, totalling \$200.00, paid for both his applications.

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: January 14, 2022

Residential Tenancy Branch