



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC-MT, FFT, CNOP**

Introduction

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

- an order for an extension of time to make an application to cancel a One Month Notice dated November 9, 2021 ("1 Month Notice");
- an order for cancellation of the 1 Month Notice; and
- authorization to recover the filing fee for this application from the Landlord pursuant to section 72(1).

The Landlord's agents ("DB", "GC" and "PM") and one of the two Tenants ("LR") attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

LR testified the Tenants served the Notice of Dispute Resolution Proceeding ("NDRP") personally on the Landlord but couldn't recall the date of service. PM acknowledged receipt of the NDRP I find that the NDRP was sufficiently serviced pursuant to section 71(2) of the Act.

DB stated that the Landlord served an evidence package on the Tenants' door and also served it by email on January 26, 2022. PM testified he attached the Landlord's evidence package on the Tenants' door. I find the Tenants were served with the Landlord's evidence package pursuant to section 88 of the Act.

Preliminary Matter – Amendment to Change Respondent

DB testified the Landlord named in the Tenants' application ("WL") is incorrect and he provided the correct name of the Landlord ("DLP"). DB submitted copies of the 1 Month Notice and the tenancy agreement, both of which stated the Landlord was DLP. DB requested the Tenants' application be amended to remove WL as a respondent and to add DLP as a respondent.

Rule 4.2 of the *Residential Tenancy Branch Rules of Procedure* states ("RoP"):

4.2 Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

As the Landlord's request could reasonably be anticipated by the Tenants, I amended the Tenants' application to add DLP as the respondent and to remove WL as a respondent.

Settlement Agreement

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.

The parties agreed to the following final and binding settlement of all issues currently under dispute:

1. The Landlord agrees to the cancellation of the 1 Month Notice;
2. The Tenants withdraw their application;
3. The Tenants must vacate the rental unit not later than 1:00 pm on March 7, 2022;
and

4. The Tenants will pay rent to the Landlord until the tenancy is ended in accordance with this settlement.

These particulars comprise the full and final settlement of all aspects of the Tenants' dispute against the Landlord. 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.

Conclusion

As the parties have reached a full and final settlement of all the claims set out in the Tenants' application, I make no factual findings about the merits of the Tenants' application.

I hereby order that the 1 Month Notice to End Tenancy to be cancelled and of no force or effect.

To give effect to the settlement reached between the parties, and as discussed at the hearing, the Landlord is granted an Order of Possession effective at 1:00 pm on March 7, 2022. The Landlord is provided with this Order 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.

As the Tenants have agreed to withdraw their application, their claim for reimbursement of the filing fees for their application from the Landlord is dismissed without leave to reapply.

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: February 11, 2022

Residential Tenancy Branch