



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, FFT

Introduction

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

- an order requiring the landlords to complete emergency repairs to the furnace/heat at the rental unit, pursuant to section 33; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord JY ("landlord") and tenant SW ("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 68 minutes.

The landlord and the tenant provided their names and spelling. They both provided their email addresses for me to send this decision to both parties after the hearing.

The landlord confirmed that he had permission to represent the other landlord named in this application, "landlord LL," who he said is the owner of the rental unit. He stated that landlord LL is his wife, and she did not attend this hearing (collectively "landlords").

The tenant confirmed that he had permission to represent the other three tenants named in this application. He said that they are his children, and they did not attend this hearing (collectively "tenants").

At the outset of this hearing, I informed both parties that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure*. The landlord and the tenant both separately affirmed, under oath, 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. I informed them that I could not provide legal advice to them. Both parties had an opportunity to ask questions, which I answered. Both parties stated that they were ready to proceed with this hearing, they did not want me to make a decision, and they wanted to voluntarily settle this application. Neither party made any adjournment or accommodation requests.

The landlord confirmed receipt of the tenants' application for dispute resolution hearing package and the tenant confirmed receipt of the landlords' evidence. In accordance with sections 88, 89 and 90 of the *Act*, I find that both landlords were duly served with the tenants' application and all four tenants were duly served with the landlords' evidence.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenants' application to include the street in the rental unit address as "st," noted above. I also amend the tenants' application to correct the landlord's first legal name and the landlord agreed to this amendment during the hearing. I find no prejudice to either party in making these amendments.

Preliminary Issue – Inappropriate Behaviour by the Tenant during this Hearing

Rule 6.10 of the RTB *Rules* states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing
Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

Throughout this hearing, the tenant repeatedly interrupted me and the landlord, while we were speaking. The tenant also argued with me throughout this hearing. I repeatedly cautioned the tenant, but he continued with this inappropriate behaviour. However, I allowed the tenant to attend the full hearing, despite his inappropriate behaviour, in order to allow him to engage in settlement negotiations with the landlord, as the tenant requested to settle this application. This hearing lasted 68 minutes because of the tenants' repeated interruptions, arguments, and inappropriate behaviour.

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 April 30, 2022, by which time the tenants and any other occupants will have vacated the rental unit;
2. The landlords agreed that the tenants are permitted to vacate the rental unit prior to April 30, 2022, provided that the tenants first give at least 10 days' written notice to the landlords by way of email;
 - a. Both parties confirmed that they have each others' email addresses to facilitate the above;
3. The landlords agreed that the tenants are entitled to two (2) months' free rent, totalling \$3,471.30, for this rental unit and tenancy, for the period from March 1 to April 30, 2022, according to the following terms;
 - a. The tenants are not required to pay any rent to the landlord while occupying the rental unit from March 1 to April 30, 2022;
 - b. The landlords will provide pro-rated monetary compensation to the tenants, if the tenants vacate the rental unit earlier than April 30, 2022, calculated from the date the tenants vacate the rental unit, and based on the \$3,471.30 total amount;
 - i. The landlords will pay the tenants by way of e-transfer;
 - ii. Both parties confirmed that they have each others' email addresses to facilitate the above;
 - iii. The landlords will pay the tenants within two (2) days of the date the tenants vacate the rental unit;
4. The landlords agreed to provide an honest reference letter to the tenants, regarding their tenancy and to be used for future prospective rental units;
5. The tenants agreed to bear the cost of the \$100.00 filing fee paid for this application;
6. The tenants agreed that this settlement agreement constitutes a final and binding resolution of their application at this hearing and agreed that they will not initiate

any future claims or applications against the landlords, with respect to this furnace/heat issue, including for any monetary compensation.

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 the 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 this application. The tenant was given ample time to think about, discuss, and review the terms of this settlement throughout this hearing and to ask questions about the above terms.

The terms and consequences of the above settlement were reviewed in detail, with both parties during the lengthy 68-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.

Conclusion

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

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 April 30, 2022, to be used by the landlord(s) **only** if the tenant(s) do not abide by condition #1 of the above settlement. The tenant(s) must be served with this Order as soon as possible after they do not comply with the above agreement. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I order that the tenants are not required to pay any rent to the landlords for this rental unit and tenancy, for the period from March 1 to April 30, 2022.

The tenants must bear the cost of the \$100.00 filing fee paid for this application.

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 25, 2022

Residential Tenancy Branch