



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, MNDCL, FFL; CNR-MT, DRI, MNRT, RP, LRE,
OLC, FFT

Introduction

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

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order of \$10,500.00 for unpaid rent and for compensation under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67; and
- authorization to recover the \$100.00 filing fee paid for his application, pursuant to section 72.

This hearing also dealt with the tenant's application pursuant to the *Act* for:

- more time to make an application to cancel the landlord's Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated September 10, 2021 ("10 Day Notice"), pursuant to section 66;
- cancellation of the landlord's 10 Day Notice, pursuant to section 46;
- an order regarding a disputed additional rent increase of \$1,900.00, pursuant to section 43;
- a monetary order of \$33,100.00 for the cost of emergency repairs, pursuant to section 67;
- an order requiring the landlord to complete repairs to the rental unit, pursuant to section 32;
- an order restricting the landlord's right to enter the rental unit, pursuant to section 70;
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the \$100.00 filing fee paid for his application, pursuant to section 72.

The landlord, the landlord's two agents ("landlord SS" and "landlord SM"), the tenant, and the tenant's witness 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 48 minutes.

The hearing began at 9:30 a.m. and ended at 10:18 a.m. The tenant's witness did not testify at this hearing. She was excluded from the outset of this hearing, exited the teleconference at 9:40 a.m., and did not return to testify.

The landlord, the landlord's two agents, the tenant and the tenant's witness confirmed their names and spelling. The tenant and landlord SM provided their email addresses for me to send this decision to both parties after the hearing.

The landlord confirmed that he co-owns the rental unit with his wife. He said that he had permission to represent his wife at this hearing. He stated that landlord SS and landlord SM had permission to represent him at this hearing.

Landlord SS stated that she was the daughter of the landlord named in this application. She confirmed the rental unit address.

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 *Rules of Procedure* ("*Rules*"). The landlord, the landlord's two agents, and the tenant all 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 both parties that I could not provide legal advice to them. Both parties had an opportunity to ask questions, which I answered. Both parties affirmed that they were ready to proceed with this hearing, they did not want me to make a decision, and they wanted to settle this application. Neither party made any adjournment or accommodation requests.

Pursuant to section 64(3)(c) of the *Act*, I amend both parties' applications to correct the spelling of the landlord's full name and the tenant's surname. Neither party objected to these amendments. I do not find prejudice to either party in making these amendments.

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 March 15, 2022, by which time the tenant and any other occupants will have vacated the rental unit;
2. Both parties agreed that the tenant is permitted to vacate the rental unit earlier than March 15, 2022, and the tenant will phone and/or email landlord SM to provide notice of same;
3. The landlord agreed that his 10 Day Notice, dated September 10, 2021, was cancelled and of no force or effect;
4. Both parties agreed that rent for this tenancy and rental unit is currently \$1,500.00 per month, which the tenant has been paying to the landlord since February 2019;
5. Both parties agreed that the tenant owes \$10,500.00 in unpaid rent to the landlord for the period from August 2021 to February 2022, at a rate of \$1,500.00 per month for 7 total months;
6. The tenant agreed to send receipts for repairs done to and appliances purchased for the rental unit during this tenancy, to landlord SM, and both parties will discuss if they can reach a resolution prior to filing any future RTB applications regarding same;
7. Both parties agreed that the tenant can reapply at the RTB for his monetary order of \$31,500.00 for the cost of emergency repairs, if both parties are unable to settle the issue, as per condition #6 above;
8. Both parties agreed to bear their own costs for the \$100.00 filing fees paid for their own applications;
9. Both parties agreed that this settlement agreement constitutes a final and binding resolution of their applications at this hearing;
10. The tenant agreed that this settlement agreement constitutes a final and binding resolution of his monetary claim for a disputed additional rent increase of \$1,900.00 in his application and agreed that he will not initiate any future claims or applications against the landlord, with respect to this issue.

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.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this lengthy 48-minute hearing. Both parties had opportunities to ask questions and to negotiate and discuss the settlement terms in detail.

The landlord had multiple opportunities to discuss and review the settlement terms privately with landlord SS and landlord SM, during this hearing. The tenant had multiple opportunities to think about and review the settlement terms privately, during this hearing. This hearing lasted longer, due to the tenant's repeated questions and comments during this hearing.

The tenant repeatedly affirmed, under oath, that he fully understood and agreed to the above settlement terms. The tenant repeatedly affirmed, under oath, that he agreed and understood that the above settlement terms were final, binding, and could not be changed after this hearing was over.

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 March 15, 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.

The landlord's 10 Day Notice, dated September 10, 2021, is cancelled and of no force or effect.

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 landlord's favour in the amount of \$10,500.00, the current amount of rent owing for this tenancy.

The tenant was unable to provide a rent payment date to the landlord during this hearing. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant fails to pay the landlord \$10,500.00 as per condition #4 of the above agreement. 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 in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

Both parties must bear their own costs for the \$100.00 filing fees paid for their own applications.

The tenant's application for a monetary order of \$33,100.00 for the cost of emergency repairs, is dismissed with 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 14, 2022

Residential Tenancy Branch