



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, RR, MNDCT, RP, LRE, LAT, OLC, FFT

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy; repair orders; orders restricting the landlord's access; a rent reduction; and a monetary order.

The hearing was conducted via teleconference and was attended by the tenant; both landlords and the landlord's legal counsel.

The only issue raised in regard to the service of evidence was that the tenant testified that she had not received the landlord's evidence. The landlord testified he served the tenant their evidence by email. After a significant discussion on specific dates of when the landlord served the documents, the tenant eventually determined that the landlord's evidence had been sent to her on February 21, 2022 and that it had gone into her "spam" folder.

While there was no documented agreement signed by the landlord and tenant that the landlord could use the tenant's email address for service of legal documents, I find that the tenant had received the landlord's evidence in her email on February 21, 2022. As a result, I am satisfied the tenant has been sufficiently served with the landlord's evidence pursuant to Section 71(2)(c) of the *Residential Tenancy Act (Act)*.

Residential Tenancy Branch Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claim regarding the One Month Notice to End Tenancy for Cause and the continuation of this tenancy is not sufficiently related to the tenant's claims to suspend or set conditions on the landlord's right to enter the rental unit; make repairs to the rental unit; and monetary claims. The parties were given a priority hearing date in order to address the question of the validity of the Notice to End Tenancy.

The tenant's other claims are unrelated in that the basis for it rests largely on facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy as set out in the One Month Notice. I exercise my discretion to dismiss the tenant's claim for suspending or setting conditions on the landlords' right to access the rental unit; make repairs to the rental unit; and monetary claims. I grant the tenant leave to re-apply for her other claims.

I note that because this is an Application for Dispute Resolution submitted by the tenants seeking to cancel a notice to end tenancy issued by the landlord, Section 55 of the *Act* requires I issue an order of possession to the landlord if the landlord's notice complies Section 52 of the *Act* and I either dismiss the tenant's application or uphold the landlord's notice to end tenancy.

Issue(s) to be Decided

The issue to be decided is whether the tenant is entitled to cancel a One Month Notice to End Tenancy for Cause and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 67, and 72 of the *Act*.

Should the tenant fail to succeed in cancelling the One Month Notice to End Tenancy for Cause, it must be determined if the landlord is entitled to an order of possession, pursuant to Sections 52 and 55 of the *Act*.

Background and Evidence

During the hearing the parties reached the following settlement:

1. The tenant agrees to vacate the rental unit on or before April 15, 2022
2. The landlord agrees that rent for the period for April 1, 2022 to April 15, 2022 will be the equivalent of one half month's rent according to the tenancy agreement;
3. The landlord agrees to not pursue a future claim against the tenant for loss of revenue for the period of April 16, 2022 to October 31, 2022 (the original fixed term of the tenancy agreement).
4. The parties agree they are bound by their respective obligations under the Act, regulation and tenancy agreement until the end of the tenancy and as they relate to the requirements under the Act for the disposition of the security deposit after the tenancy has ended.

Conclusion

In support of this settlement and by agreement of both parties I grant the landlord an order of possession effective **April 15, 2022 after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: March 01, 2022

Residential Tenancy Branch