



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BROWN BROS. AGENCIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR-DR, CNR, MNR-DR, FFL

Introduction

This hearing was convened in response to cross applications.

The Landlord filed the Application for Dispute Resolution with file number ending in 6936, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities, a monetary Order for unpaid rent or utilities, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on April 25, 2022 this Dispute Resolution Package and evidence that was submitted to the Residential Tenancy Branch on March 24, 2022 was sent to the Tenant, via registered mail, at the service address noted on the Application. The Agent for the Landlord stated that this package was returned to the Landlord by Canada Post. The Landlord submitted Canada Post documentation that corroborates this statement.

The Landlord filed the Application for Dispute Resolution with the file number ending in 9418, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities, a monetary Order for unpaid rent or utilities, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on April 26, 2022 this second Dispute Resolution Package and evidence that was submitted to the Residential Tenancy Branch on April 14, 2022 was sent to the Tenant, via registered mail, at the service address noted on the Application. The Agent for the Landlord stated that this package was returned to the

Landlord by Canada Post. The Landlord submitted Canada Post documentation that corroborates this statement.

The Tenant stated that she did not receive any notice of registered mail from Canada Post and that she did not receive either of the Application for Dispute Resolution filed by the Landlord. As the evidence that was served to the Tenant by mail on April 25, 2022 and April 26, 2022 was not received by the Tenant, it was not accepted as evidence for these proceedings.

The Tenant filed an Application for Dispute Resolution with the file number ending in 6181, in which the Tenant applied to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities.

The Tenant stated that in March of 2021 this Dispute Resolution Package was sent to the Landlord, via registered mail. The Landlord acknowledged receipt of this Application for Dispute Resolution.

The Tenant filed an Application for Dispute Resolution with the file number ending in 9231, in which the Tenant applied to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities. The Tenant did not submit documentation that corroborates her testimony that this Application for Dispute Resolution was served by registered mail.

The Agent for the Landlord stated that the Application for Dispute Resolution with the file number ending in 9231, was not received.

On April 12, 2022 the Tenant submitted evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was mailed to the Landlord on April 08, 2022, although she did not submit evidence that corroborates this testimony. The Agent for the Landlord stated that this evidence was not received. As the Landlord did not acknowledge receiving this evidence, it was not accepted as evidence for these proceedings.

On June 08, 2022 the Landlord submitted evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was posted on the Tenant's door on June 08, 2022. The Tenant acknowledged receiving this evidence, with the exception of the document labelled "L3". The evidence the Tenant acknowledged receiving was accepted as evidence for these proceedings.

On June 27, 2022 the Tenant submitted evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was mailed to the Landlord on June 27, 2022. The Agent for the Landlord stated that this evidence was not received. As this evidence was only mailed one day before the hearing and the Landlord does not acknowledge receiving it, it was not accepted as evidence for these proceedings.

At the hearing the Tenant acknowledged that she is aware that the Landlord is seeking an Order of Possession on the basis of a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities that was served in March of 2022 and a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities that was served in April of 2022. She stated that she is also aware that the Landlord is seeking compensation for unpaid rent. As the Tenant acknowledged that she is aware of the claims being made by the Landlord in their two Applications for Dispute Resolution and the issues in dispute are closely related to the issues in dispute in the Tenant's Applications for Dispute Resolution, I concluded that it was reasonable to proceed with the Landlord's Applications for Dispute Resolution. At the hearing the Tenant agreed that it was reasonable to proceed with the Landlord's Applications for Dispute Resolution.

At the hearing the Agent for the Landlord acknowledged that she is now aware that the Tenant is seeking to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities that was served in March of 2022 and to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities that was served in April of 2022. As the Agent for the Landlord acknowledged that she is aware of the claims being made by the Tenant in her two Applications for Dispute Resolution and the issues in dispute are closely related to the issues in dispute in the Landlord's Applications for Dispute Resolution, I concluded that it was reasonable to proceed with the Tenant's Applications for Dispute Resolution. At the hearing the Agent for the Landlord agreed that it was reasonable to proceed with the Tenant's Applications for Dispute Resolution.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession or should the Ten Day Notices to End Tenancy for Unpaid Rent or Utilities be set aside?

Is the Landlord entitled to a monetary Order for unpaid rent?

Background and Evidence

The Landlord and the Tenant agree that the monthly rent for this tenancy is \$1,375.00.

During the hearing both parties discussed documentary evidence that was, in my view, highly relevant to the issues in dispute. These documents had been submitted to the Residential Tenancy Branch but neither party acknowledged receiving the evidence from the other party and it had not been accepted as evidence for the proceedings.

As this evidence is, in my view, highly relevant to the issues in dispute I advised the parties that I considered it appropriate to adjourn the hearing to provide the parties with the opportunity to re-serve evidence to the other party.

The Tenant agreed that an adjournment was reasonable. The Agent for the Landlord opposed the adjournment on the basis that rent is not being paid and an adjournment would be unfair to the Landlord. The parties were advised that I considered an adjournment to be appropriate in these circumstances, as the evidence may establish that rent has been paid, even though I acknowledge the difficulties this poses for the Landlord. In my view, an adjournment may provide information that is vital to a fair and just conclusion.

After much discussion about the adjournment and payment of rent, the Landlord and the Tenant mutually agreed to resolve all issues in dispute at these proceeding under the following terms:

- The tenancy will end, by mutual agreement, on July 31, 2022;
- The Tenant will pay rent for July of 2022;
- The Tenant will ensure that rent for June of 2022 is “re-directed” to the Landlord;
and
- The Landlord will not pursue any claim for unpaid rent for any period prior to July 31, 2022.

The aforementioned settlement agreement was summarized for the parties on at least two occasions. All parties present at the hearing clearly indicated their intent to resolve this dispute under these terms.

All parties present at the hearing acknowledged that they understand they were not required to enter into this agreement and that they were doing so voluntarily.

All parties present at the hearing acknowledged that they understood the agreement was final and binding.

Analysis

I find that all issues in dispute at these proceedings have been settled in accordance with the aforementioned terms.

Conclusion

On the basis of the settlement agreement, I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on July 31, 2022. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

On the basis of the settlement agreement, I grant the Landlord a monetary Order for \$2,750.00. This monetary Order may only be served upon the Tenant if the Tenant fails to pay her rent for July of 2022 by July 30, 2022 and/or if she fails to ensure the Landlord receives payment for rent from June of 2022 by July 30, 2022.

If any portion of the \$2,750.00 is unpaid by July 30, 2022, the monetary Order may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and 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 *Act*.

Dated: June 28, 2022

Residential Tenancy Branch