



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THE WHITE HOUSE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR-PP, MNR-DR, FFL

Introduction

This hearing originated as a Direct Request Proceeding and was adjourned to a participatory hearing in an Interim Decision dated March 3, 2022, due to issues with the naming of the parties. This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent, pursuant to sections 46 and 55;
- a Monetary Order for unpaid rent, pursuant to sections 26 and 67; and
- authorization to recover the filing fee from the tenant, pursuant to section 72.

The tenant and the landlord's agent (the "agent") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they are not recording this dispute resolution hearing.

Per section 95(3) of the *Act*, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000."

Both parties confirmed their email addresses for service of this decision and orders.

Preliminary Issue – Naming of Parties

Residential Tenancy Branch Policy Guideline 13 (PG #13) states:

If a tenant allows a person to move into the rental unit, the new person is an occupant who has no rights or obligations under the tenancy agreement, unless the landlord and the existing tenant agree to amend the tenancy agreement to include the new person as a tenant. Alternatively, the landlord and tenant could end the previous tenancy agreement and enter into a new tenancy agreement to include the occupant.

The Interim Decision states:

I note that [the tenant's daughter] did not sign the original tenancy agreement. The landlord submitted a copy of an amendment to the agreement indicating that [the tenant's daughter] would be added to the tenancy. However, I find that this amendment is not signed by the original tenant, demonstrating that [the tenant] consented to the amendment. I find this discrepancy in the amendment raises a question that can only be addressed in a participatory hearing.

The landlords' application for dispute resolution listed the tenant and the tenant's daughter as tenants. Both parties agree that this tenancy started on January 1, 2017 between the landlord and the tenant and that the tenant's daughter was not a tenant at that time.

The agent testified that in 2018 the tenant asked the landlord to add her daughter to the tenancy agreement and so the landlord provided the tenant's daughter with a "Residential Tenancy Amendment Agreement" which the tenant's daughter and an agent of the landlord signed on December 1, 2018. The above form purported to add the tenant's daughter to the tenancy agreement. The form is not signed by the tenant.

The tenant testified that she believed her daughter was being added as an occupant, not as a co-tenant. The tenant testified that she did not consent to adding her daughter as a co-tenant.

The parties were unable to come to a settlement agreement regarding the status of the tenant's daughter as an occupant versus a co-tenant. Both parties agreed to abide by my decision on this matter.

I find that a co-tenant cannot be added to a tenancy agreement without the knowledge and consent of the original tenant. As the tenant did not sign the "Residential Tenancy Amendment Agreement" and has denied agreeing to add her daughter as a co-tenant, I find that tenant's daughter is not a co-tenant and is an occupant. Pursuant to section 64 of the *Act* and PG #13, I amend the landlord's application for dispute resolution to remove the tenant's daughter as a tenant.

Analysis

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 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.

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

1. The tenant agrees to pay the landlord \$6,560.00 by June 30, 2022.
2. The tenant and all other occupants agree to vacate the subject rental property by 1:00 p.m. on June 30, 2022 if they do not pay the landlord \$6,560.00 by June 30, 2022.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both 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.

Conclusion

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue the attached Monetary Order, in the amount of \$6,560.00, which should be served on the tenant, to be used by the landlord **only** if the tenant does not abide by the terms of the settlement agreement.

Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Small Claims Court of British Columbia.

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 June 30, 2022, which should be served on the tenant, to be used by the landlord **only** if the tenant does not abide by the terms of the settlement agreement.

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: June 03, 2022

Residential Tenancy Branch