



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LIMITED PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR-MT, OPR-DR, MNR-DR

Introduction

This hearing dealt with cross applications filed by the parties. On March 7, 2022, the Tenant made an Application for Dispute Resolution seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) pursuant to Section 46 of the *Residential Tenancy Act* (the “Act”) and seeking more time to cancel the Notice pursuant to Section 66 of the *Act*.

On February 17, 2022, the Landlord made an Application for Dispute Resolution seeking an Order of Possession based on the Notice pursuant to Section 46 of the *Act* and seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*.

The Tenant attended the hearing, and J.B. attended the hearing as an agent for the Landlord. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so. As well, all parties in attendance provided a solemn affirmation.

The Tenant advised that she did not serve the Notice of Hearing package to the Landlord. As such, the Tenant’s Application was dismissed in its entirety.

J.B. advised that the Landlord’s Notice of Hearing and evidence package was served to the Tenant by registered mail on March 2, 2022. While the Tenant confirmed receipt of

this package, she stated that she did not sign for it and did not know who did. Regardless, she was satisfied that she received it and she was prepared to proceed. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the Act, I am satisfied that the Tenant was sufficiently served with the Landlord's Notice of Hearing and evidence package. As such, this evidence will be accepted and considered when rendering this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for compensation?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on August 15, 2020, that rent was originally established at an amount of \$1,515.00 per month, that it was increased legally to \$1,537.72 per month effective for January 1, 2022, and that the rent was due on the first day of each month. A security deposit of \$757.50 and a pet damage deposit of \$757.50 were also paid. A copy of the signed tenancy agreement was submitted as documentary evidence.

J.B. testified that the Notice was served to the Tenant by posting it to her door on February 7, 2022. A proof of service form was submitted as documentary evidence to corroborate service, and the Tenant confirmed that she received this. The Notice indicated that \$6,398.75 was owing for rental arrears and that it was due on February 1, 2022. The effective end date of the tenancy was noted on the Notice as February 20, 2022.

She stated that the Tenant paid \$500.00 in February 2022, \$1,800.00 in March 2022, and \$500.00 in April 2022, and that no monies for May or June 2022 rent were paid. As such, the Tenant is in arrears **\$9,749.63**. as of the date of the hearing.

The Tenant acknowledged that the amount of rent owing on the Notice was accurate, that she did not pay this amount in full within five days to cancel the Notice, and that she did not dispute the Notice either. She also confirmed the payments that were made, according to J.B., in February, March, and April 2022, and she agreed that the amount of rental arrears outstanding to date was accurate.

After hearing submissions from the parties, they turned their minds to reaching a full and final settlement agreement. The parties were able to reach an agreement and I have recorded the terms of agreement by way of this Decision, the conditional Order of Possession, and the conditional Monetary Order that accompanies it.

Settlement Agreement

I raised the possibility of settlement pursuant to Section 63(1) of the *Act* which allows an Arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary, that if they chose not to discuss settlement I would make a final and binding Decision on the matter, and that if they chose to discuss settlement and did not come to an agreement, that I would make a final and binding Decision on the matter.

I advised the parties that if they did come to an agreement, I would write out this agreement in my written Decision and make any necessary Orders. I also explained that the written Decision would become a final and legally binding agreement. The parties did not have questions about discussing a settlement when asked.

The parties reached the following full and final settlement agreement during the hearing:

1. The 10 Day Notice to End Tenancy for Unpaid Rent of February 7, 2022 is cancelled and of no force or effect.
2. The Tenant will remain in possession of the rental unit.
3. The Tenant must pay to the Landlord the amount of **\$1,537.72** by **July 1, 2022**, for July 2022 rent. In addition, the Tenant must pay to the Landlord the amount of **\$1537.72**, which will apply to the total amount in arrears.
4. If condition three is breached, the Landlord is provided with a conditional Order of Possession effective **two days** after service of this Order on the Tenant.

5. In addition, if condition three is breached, the Landlord is provided with a conditional Monetary Order in the amount of **\$9,749.63**, which represents the total rental arrears including June 2022 rent.
6. Should the Tenant comply with condition three, as of August 1, 2022, the Tenant must pay to the Landlord the sum of **\$1,537.32** for August 2022 rent. The Tenant must also pay to the Landlord the sum of **\$3,000.00**, which will apply towards the rental arrears. This total payment must be made by **August 1, 2022**.
7. If condition six is breached, the Landlord is provided with a conditional Order of Possession effective **two days** after service of this Order on the Tenant.
8. In addition, if condition six is breached, the Landlord is provided with the same conditional Monetary Order in the amount of **\$9,749.63**, which does not include any rental arrears after June 2022 rent. Only the amount remaining outstanding to date will be enforceable.
9. Should the Tenant comply with condition six, for each subsequent month until the arrears are settled, the Tenant must pay to the Landlord, on the first of each month, the sum of **\$1,537.32** for rent, plus **\$3,000.00** that will apply towards the rental arrears until the arrears is fully satisfied.
10. If condition nine is breached, the Landlord is provided with a conditional Order of Possession effective **two days** after service of this Order on the Tenant.
11. In addition, if condition nine is breached, the Landlord is provided with the same conditional Monetary Order in the amount of **\$9,749.63**, which does not include any rental arrears after June 2022 rent. Should the Tenant pay a portion of the arrears, only the amount outstanding will be enforceable.
12. The parties agreed that fulfilment of these conditions would amount to full and complete satisfaction of these dispute.

This settlement agreement was reached in accordance with Section 63 of the *Act*. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that they understood the binding nature of this full and final settlement of these disputes.

If any of the conditions for rent payments are breached, the Landlord is provided with a conditional Order of Possession effective **two days** after service of this Order on the Tenant.

If any of the payment conditions are breached, the Landlord is provided with a conditional Monetary Order in the amount of **\$9,749.63**. Should the Tenant pay a portion of the arrears, only the amount outstanding will be enforceable.

Conclusion

The parties reached a full and final settlement agreement in resolution of their disputes. I have recorded the terms of settlement in this Decision and in recognition of the settlement agreement, I hereby Order that the 10 Day Notice to End Tenancy for Unpaid Rent of February 7, 2022 to be cancelled and of no force or effect.

If the Tenant breaches any of the conditions of this settlement agreement, the Landlord is provided with a formal copy of a conditional Order of Possession effective **two days after service of this Order** on the Tenant. Should the Tenant or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

If the Tenant breaches any of the conditions of this settlement agreement, the Landlord is provided with a conditional Monetary Order in the amount of **\$9,749.63** to serve and enforce upon the Tenant, if necessary. The Order must be served on the Tenant by the Landlord. 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. Only the amount remaining unpaid by the Tenants will be enforceable.

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 23, 2022

Residential Tenancy Branch