



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, DRI, FFT

Introduction

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

- cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47;
- disputation of a rent increase from the landlord, pursuant to section 42; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The tenant's brother and roommate attended the hearing and provided affirmed testimony. The landlord's wife and co-owner of the subject rental property attended the hearing and provided affirmed testimony.

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 order.

Preliminary Issue- Naming of Parties

The tenant's brother was listed as a tenant on this application for dispute resolution. Both parties agree that the tenant moved into the subject rental property in approximately 2004. Both parties agree that the tenant's brother moved into the subject rental property approximately 1.5 years ago as a roommate. The landlord testified that no new tenancy agreement was entered into when the tenant's brother moved in. This was not disputed by the tenant or the tenant's brother.

Residential Tenancy Policy Guideline #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.

Based on the testimony of both parties, I find that the tenant's brother is an occupant, and not a tenant. Therefore, pursuant to section 64 of the *Act*, I amend the tenant's application to remove the tenant's brother from the application.

Preliminary Issue- Service

Both parties agree that the tenant did not serve the landlord with the tenant's application for dispute resolution or evidence.

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 the tenant's application for cancellation of the One Month Notice to End Tenancy for Cause,

pursuant to section 47 and authorization to recover the filing fee for this application from the landlord, pursuant to section 72:

1. The tenant and all occupants agree to vacate the subject rental property by 1:00 p.m. on June 30, 2022.
2. The tenant agrees to pay the landlord \$3,000.00 on June 3, 2022.
3. The tenant agrees to pay the landlord \$2,500.00 by June 15, 2022.

These particulars comprise the full and final settlement of the tenant's claims for:

- cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The tenant has leave to file a new application for dispute resolution to dispute a rent increase.

Both parties gave verbal affirmation at the hearing that they understood and agreed to the above terms as legal, final and binding and that this settlement agreement was entered into free of any duress and coercion.

Conclusion

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. 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.

To give effect to the settlement reached between the parties, I issue the attached Monetary Order in the amount of \$5,000.00 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.

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