



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNL, FFT**

Introduction

This hearing was convened as a result of the Tenant's application for dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"). The Tenant applied for:

- an order cancelling an undated Two Month Notice for Landlord's Use of Property ("First 2 Month Notice") pursuant to section 49;
- an order cancelling a Two Month Notice for Landlord's Use of Property dated April 1, 2022 ("Second 2 Month Notice") pursuant to section 49; and
- authorization to recover the Tenant's filing fee for the Application from the Landlord pursuant to section 72.

The owner of the rental unit ("SL"), an agent ("JF") for corporate Landlord ("LMI"), the daughter ("RL") of SL and the Tenant attended the hearing. They were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The Tenant stated he served the Notice of Dispute Resolution Proceeding ("NDRP") on LMI by registered mail on April 20, 2022. The Tenant submitted the Canada Post tracking number for service of the NDRP on LMI. I find LMI was served with the NDRP in accordance with the provisions of section 89 of the Act.

The Tenant stated he served his evidence on LMI by registered mail on April 25, 2022. The Tenant submitted the Canada Post tracking number for service of his evidence on LMI. I find LMI was served with the Tenant's evidence in accordance with the provisions of section 88 of the Act.

The Tenant stated he served an amendment ("Amendment") to the Application dated April 29, 2022 on LMI by email on May 6, 2022. Although the LMI has not consented to

service of documents pursuant to section 43(1) of the *Residential Tenancy Regulations*, JF acknowledged LMI received the Amendment. As such, I find the Amendment was sufficiently served on LMI pursuant to section 71(2)(b) of the Act.

JF stated LMI served its evidence on the Tenant by registered mail on June 17, 2022. Although JF could not provide the Canada Post tracking number for service of LMI's evidence, the Tenant acknowledged receipt of LMI's evidence. I find LMI's evidence was served on the Tenant in accordance with section 89 of the Act.

Preliminary Matter – Amendment to Add Respondent

JF stated that the owner of the rental unit as SL who was present at the hearing. JF stated that LMI was the agent for SL. JF stated the First 1 Month Notice named LMI as the Landlord but the Notice was undated. JF stated the Second 1 Month Notice named SL as the Landlord. JF requested that I amend the Application to add SL as a respondent to the Application. SL and the Tenant consent to the proposed amendment.

Rules 7.12 and 7.13 of the *Residential Tenancy Branch Rules of Procedure* state:

7.12 Request that another person be added to a proceeding

In exceptional circumstances, a party may make an oral request at the hearing to add another party.

7.13 Determining that another person be added as a party

At the request of a party under Rule 7.12, the arbitrator will decide whether a person will be added as a party.

In addition, the arbitrator may unilaterally determine that another person should be added as a party.

The newly added party will be added to the proceedings without the need for further revision of the Application for Dispute Resolution.

All Rules of Procedure apply to the newly added party, with the exception of Rules establishing timeframes for the exchange of evidence.

As soon as possible after a party is added to a proceeding, the original applicant(s) and respondent(s) must serve their evidence on the newly added party.

The newly added party must, as soon as possible, serve their evidence on the original applicant(s) and respondent(s) and submit it to the Residential Tenancy Branch directly or through a Service BC Office, and in any event not less than seven days before the reconvened hearing.

Pursuant to JF's request, and with the consent of SL and the Tenant, I order that SL be added as a respondent to the Application. As LRI is the agent for SL, SL is deemed as the principal of LRI, to have received LRI's and the Tenant's evidence and, therefore, it is unnecessary for me to order that LRI and the Tenant serve SL with their evidence. As SL's evidence was served by LRI on the Tenant, it is unnecessary for me to order that SL serve any evidence on LRI, the Tenant or the Residential Tenancy Branch. Hereinafter, the LRI and SL will be referred to as the Landlords.

Settlement

Pursuant to section 63 of the Act, an 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.

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

1. The Landlords agree to cancel the 1 Month Notice;
2. The Tenant agrees to withdraw the Application;
3. The Tenant agrees to vacate the rental unit by 1:00 pm on August 31, 2022;
4. The Tenant will not be required to pay rent to the Landlords for the month of August 2022; and
5. In the event the Tenant intends to vacate the rental unit prior to August 31, 2022, the Tenant agrees to serve the Landlord with written notice ("Vacate Notice") stating the date the Tenant will vacate the rental unit. The Landlord agrees to pay the Tenant an amount equal to the per diem rental rate of \$108.03 per day for each day the Tenant does not occupy the rental unit during the month of August 2022 commencing from 11th day after the date specified in the Vacate Notice until, and including, August 31, 2022.

These particulars comprise the full and final settlement of all claims made by the Tenant in the Application. The 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 claims made in the Application.

Conclusion

As the parties have reached a full and final settlement of all the claims set out in the Application, I make no factual findings about the merits of the Application.

To give effect to the settlement reached between the parties, and as discussed at the hearing, I order the First 2 Month Notice and Second 2 Month Notice to be cancelled and I grant the Landlords an Order of Possession effective at 1:00 pm on August 31, 2022. The Landlords are provided with this Order on the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia 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 *Residential Tenancy Act*.

Dated: July 8, 2022

Residential Tenancy Branch