



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, FFT

Introduction

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

- an order requiring the landlords to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

"Tenant SK" did not attend this hearing, which lasted approximately 63 minutes. The two landlords, landlord LS ("landlord") and "landlord YZ" (collectively "landlords") and tenant AM ("tenant") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

This hearing began at 9:30 a.m. with me and the landlord present. The tenant called in late at 9:31 a.m. Landlord YZ called in late at 9:34 a.m. No evidence was discussed in the absence of the tenant or landlord YZ. This hearing ended at 10:33 a.m.

The two landlords and the tenant confirmed their names and spelling. The landlord and the tenant both provided their email addresses for me to send this decision to both parties after the hearing.

The landlords stated that they both co-own the rental unit. The landlord provided the rental unit address.

The tenant confirmed that he had permission to represent tenant SK at this hearing (collectively "tenants").

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* (“*Rules*”) does not permit recording of this hearing by any party. At the outset of this hearing, the two landlords and the tenant all separately affirmed, under oath, that they would not record this hearing.

I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. Both parties had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests. Both parties confirmed that they were ready to proceed with this hearing, they wanted to settle this application, and they did not want me to make a decision.

The landlord confirmed receipt of the tenants’ application for dispute resolution and notice of hearing. The tenant confirmed receipt of the landlords’ evidence. In accordance with sections 88 and 89 of the *Act*, I find that both landlords were duly served with the tenants’ application and notice of hearing and both tenants were duly served with the landlords’ evidence.

The landlord said that she received the tenants’ evidence on a CD on August 9, 2022. She stated that she was unable to view it because she does not have a CD-rom on her computer and the tenants did not provide a USB drive, as required by the *Rules*. The tenant claimed he only submitted a DVD, not a USB drive, to the landlords by registered mail on August 9, 2022. He said that he submitted a digital evidence details form as required by the *Rules*, indicating that he served a DVD to the landlords.

I informed both parties that I could not consider the tenants’ evidence at this hearing or in my decision. I notified them that tenants’ evidence was late, as it was received by the landlords on August 9, 2022, which is less than 14 clear days prior to this hearing on August 23, 2022, not including the service or hearing dates, contrary to Rule 3.14 of the RTB *Rules*. I informed them that the landlords could not view the tenants’ evidence on the DVD, the tenants did not provide a USB drive as required by the *Rules*, and the tenants did not confirm prior to this hearing, that the landlords could view their digital evidence. Regardless, I was not required to consider the tenants’ evidence at the hearing or in my decision since both parties voluntarily settled this application.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenants’ application to include the legal first name of landlord YZ, as only his nickname was used as a first name in this application. I find no prejudice to either party in making this amendment.

Settlement Terms

Pursuant to section 63 of the *Act*, if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision and orders. During the hearing, the parties discussed the issues between them, 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 at this time:

1. Both parties agreed that this tenancy will continue until it is ended in accordance with the *Act*;
2. The tenants agreed that they will not have any contact with the upstairs occupants (a family of four people), unless there is an emergency;
3. The tenants agreed that they will contact the landlords, primarily by way of text messages to landlord YZ, if any tenancy-related issues arise with the upstairs occupants;
4. The landlords agreed that their One Month Notice to End Tenancy for Cause, dated August 6, 2022 and effective September 30, 2022 ("1 Month Notice"), is cancelled and of no force or effect;
5. The tenants agreed to bear the cost of the \$100.00 filing fee paid for this application;
6. The tenants agreed that this settlement agreement constitutes a final and binding resolution of their application.

These particulars comprise the full and final settlement of all aspects of this dispute. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding, and enforceable, which settle all aspects of this dispute.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this lengthy 63-minute hearing. Both parties had opportunities to ask questions and to negotiate and discuss the settlement terms in detail. Both parties affirmed, under oath, that they agreed and understood that the above settlement terms were final, binding, and could not be changed after this hearing was over. Both parties were given ample time during this hearing to think about, review, discuss, ask questions, and privately negotiate the terms of this settlement.

The tenant affirmed that he had permission to make this agreement on behalf of tenant SK. The tenant affirmed that he agreed and understood that tenant SK was also bound by the same settlement terms in this agreement.

Conclusion

I order both parties to comply with all of the above settlement terms.

This tenancy continues until it is ended in accordance with the *Act*.

The landlords' 1 Month Notice, dated August 6, 2022, is cancelled and of no force or effect.

The tenants must bear the cost of the \$100.00 filing fee paid for this application.

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: August 23, 2022

Residential Tenancy Branch