



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC, 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:

- cancellation of a One Month Notice for Cause dated April 14, 2022 ("1 Month Notice") pursuant to section 47; and
- authorization to recover the filing fee for the Application from the Landlord pursuant to section 72.

Two agents ("DN" and "MW") for the Landlord, the Tenant and the Tenant's advocate ("SW") attended the hearing. I explained the hearing process to the parties who did not have questions when asked. I told the parties they were not allowed to record the hearing pursuant to the *Residential Tenancy Branch Rules of Procedure* ("RoP"). The parties 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 the Landlord in-person. Although the Tenant could not recall the date of service of the NDRP on the Landlord, DN acknowledged the Landlord received it on May 9, 2022. I find the NDRP was served on the Landlord in accordance with the provisions of section 89 of the Act.

Preliminary Matter – Removal and Addition of a Respondent to Application

At the outset of the hearing, I noted that the tenancy agreement and 1 Month Notice named a corporate entity ("MDL") as the landlord whereas the Tenant named DN as the Landlord. DN stated she was the resident manager for MDL and was not the Landlord of the rental unit. The Tenant requested that I amend the Application to remove DN as a

respondent and to add MDL as the respondent. DN consented to the Tenant's request for an amendment to the Application.

Rule 4.2 of the RoP states:

4.2 Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

At the request of the Tenant, and with the consent of DN, I order the Application be amended to remove DN as the respondent and to add MDL as the respondent. From this point on in my decision, when I refer to the Landlord, I am referring to MDL.

Settlement Agreement

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 Landlord agrees to cancel the 1 Month Notice;
2. The Tenant agrees to withdraw the Application;
3. The Tenant agrees that he, and none of his guests, will smoke tobacco or cannabis or vape in the rental unit or anywhere on the residential property;
4. The Tenant agrees that he will pay the outstanding rental arrears of \$843.00 by September 15, 2022 and will pay the rent in full on time in accordance with the provisions of the tenancy agreement between the Tenant and the Landlord ("Tenancy Agreement");

5. The Landlord agrees that it will not serve the Tenant with a Ten Day Notice for Unpaid Rent for all or any portion of the \$843.00 in rental arrears prior to September 16, 2022; and
6. Notwithstanding paragraph 5 of this settlement agreement, commencing with the rent due on August 31, 2022, if the Tenant does not pay the rent in full when it is due in accordance with the provisions of the Tenancy Agreement, the Landlord has the option of serving the Tenant with a Ten Day Notice for Unpaid Rent.

These particulars comprise the full and final settlement of all aspects of the Landlord's dispute against the Tenant. 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.

The Landlord is provided with the Order of Possession in the above terms and the Tenant must be served with the Order as soon as possible.

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 25, 2022

Residential Tenancy Branch