



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: Tenant: CNR-MT, CNL, DRI, FFT
Landlords: OPR-DR, MNR-DR, FFL

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlords requested:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72 of the *Act*

The tenant requested:

- more time to make an application to cancel the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 66;
- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the landlord’s 2 Month Notice to End Tenancy for Landlord’s Use of Property (“2 Month Notice”), pursuant to section 49;
- a determination regarding their dispute of an additional rent increase by the landlord pursuant to section 43; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*.

This hearing was originally set to deal with the two cross applications above, but it came to my attention during the hearing that the same parties had a third matter set for a hearing on December 6, 2022 to deal with the landlords’ application pertaining to this same tenancy for:

- an Order of Possession for landlord’s use pursuant to section 55; and

- authorization to recover the filing fee for this application, pursuant to section 72.

With the consent of both parties, this third application was dealt with on November 24, 2022. Accordingly, the hearing scheduled for December 6, 2022 was cancelled, and attendance of either party was not required for that appearance.

The landlord was presented by their legal counsel, AN, in these proceedings, while the tenant attended with their advocate, SW, and friend MN. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

Pursuant to Rule 6.11 of the RTB Rules of Procedure, the Residential Tenancy Branch's teleconference system automatically records audio for all dispute resolution hearings. In accordance with Rule 6.11, persons are still prohibited from recording dispute resolution hearings themselves; this includes any audio, photographic, video or digital recording. Both parties were also clearly informed of the RTB Rules of Procedure about behaviour including Rule 6.10 about interruptions and inappropriate behaviour. Both parties confirmed that they understood.

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, turned their minds to compromise and achieved a resolution of their disputes.

Both parties agreed to the following final and binding settlement of the 3 files noted on the cover page of this Decision, on the following conditions:

1. The parties agree that the tenancy will end no later than **February 28, 2023 at 5:00 p.m.** An order of possession is granted to the landlords as part of this term, effective February 28, 2023 at 5:00 p.m.
2. The parties agree that for December 2022, January 2023, and February 2023, the monthly rent will be **\$700.00 per month**, and due on the first day of each month.
3. The parties agree that in the event the tenant vacates the rental unit prior to February 28, 2023, the parties agree that there will be no penalty for the tenant doing so.

4. The parties agree that in the event the tenant vacates the rental unit earlier than February 28, 2023, the parties agree that a per diem/daily rate of rent will be owed and any additional amount will be refunded to the tenant.
5. The parties agree that as of November 24, 2022, the tenant does not owe rent arrears and that both parties waive their right to the recovery of their respective filing fees.
6. The parties agree that the 10 Day Notice and 2 Month Notice issued during the tenancy are of no force or effect and that the tenancy is ending based on this mutual agreement to end tenancy, pursuant to section 63 of the Act.
7. The parties agree that this mutually settled agreement does not apply to the tenant's security deposit, which will be dealt with in accordance with section 38 of the Act.
8. The parties agree that this mutually settled agreement includes both parties withdrawing their respective applications and that all 3 files listed on the cover page of this Decision are resolved by this mutually settled agreement.

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

Pursuant to section 62(3) of the Act, I make the following order:

I ORDER the parties to comply with their mutually settled agreement specified above, comprised of 8 terms.

Conclusion

The parties have entered into a mutually settled agreement pursuant to section 63 of the Act and I have made the order listed above to ensure the binding nature of the agreement between the parties, which is final and binding.

In order to implement the above settlement reached between the parties, and as advised to both parties during the hearing, I issue an Order of Possession to the landlords effective February 28, 2023 at 5:00 p.m. The landlords are provided with this Order in the above terms and the tenant must be served with this Order **only** in the event that the tenant does not abide by condition #1 of the above settlement. 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.

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: December 07, 2022

Residential Tenancy Branch