



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AQUATERRA MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

CNC

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to cancel a One Month Notice to End Tenancy for Cause.

The Tenant stated that the Dispute Resolution Package was sent to the Landlord, via registered mail, on, or about, October 14, 2022. The Agent for the Landlord acknowledged receiving these documents.

On August 30, 2022 the Tenant submitted an Amendment to the Application for Dispute Resolution, in which he applied to dispute a second One Month Notice to End Tenancy for Cause and for a monetary Order for money owed or compensation for damage or loss.

The Tenant stated that he personally served the Amendment to a building manager, although he does not recall the building manager's name nor does he recall the date of service.

The Agent for the Landlord stated that the Amendment was not received by the Landlord and the Landlord is not prepared to respond to the issues in the Amendment.

I find that the Tenant has submitted insufficient evidence to establish that the Landlord was served with the Amendment to the Application for Dispute Resolution. In reaching this conclusion, I was heavily influenced by the absence of document evidence to

corroborate the Tenant's testimony that it was served, by the fact the Tenant recalls few details of the service, and by the fact the Landlord does not acknowledge service of these documents. As the Tenant has failed to establish service of the Amendment, I find that the Application for Dispute Resolution has not been properly amended. As such, I will not be considering the issues identified in the Amendment.

On July 21, 2022 the Tenant submitted a copy of the One Month Notice to End Tenancy for Cause that is the subject of this dispute. The Tenant stated that this document was served to the Landlord, via registered mail, although he does not recall the date of service. The Agent for the Landlord state that this document was not served to the Landlord as evidence for these proceedings, however the Landlord also submitted a copy of it as evidence for these proceedings. As both parties submitted a copy of this document, I find it should be accepted as evidence for these proceedings.

On November 03, 2022 the Tenant submitted additional evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was served to the Landlord, via registered mail, on November 09, 2022. The Tenant was unable to provide a Canada Post tracking number to corroborate this testimony. The Agent for the Landlord stated that this evidence was not received by the Landlord.

I find that the Tenant has submitted insufficient evidence to establish that the Landlord was properly served with the evidence package of November 03, 2022. In reaching this conclusion, I was heavily influenced by the absence of Canada Post documentation or tracking number to corroborate the Tenant's testimony that it was served. As the Tenant has failed to establish service and the Landlord denies receiving this evidence, this evidence was not accepted as evidence for these proceedings.

On November 15, 2022 the Landlord submitted evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was served to the Tenant, via registered mail, on November 15, 2022. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On December 08, 2022 the Landlord submitted evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was not served to the Tenant. As this evidence was not served to the Tenant, it was not accepted as evidence for these proceedings.

Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

Issue(s) to be Decided

Should the One Month Notice to End Tenancy for Cause, dated July 14, 2022, be set aside?

Background and Evidence

Some terms of the tenancy and issues related to service of the One Month Notice to End Tenancy for Cause were discussed during the hearing. The details of those discussions are not recorded here as the parties managed to reach a settlement agreement.

The Tenant and the Agent for the Landlord mutually agreed to settle all issues in the original Application for Dispute Resolution under the following terms:

- An Order of Possession, effective December 31, 2022, will be granted to the Landlord;
- The Landlord will not serve the Order of Possession until February 23, 2023, providing the Tenant pays all of the rent when it is due on January 01, 2023 and February 01, 2023;
- The Landlord will only serve the Order of Possession prior to February 23, 2023 if the Tenant does not pay all of the rent when it is due on January 01, 2023 and February 01, 2023; and
- The Tenant can live in the property until February 28, 2023, providing the rent is paid when it is due.

The aforementioned settlement agreement was summarized for the parties on at least two occasions. The Agent for the Landlord and the Tenant clearly indicated their intent to resolve this dispute under these terms.

The Agent for the Landlord and the Tenant each acknowledged that they understand they were not required to enter into this agreement and that they were doing so

voluntarily.

The Landlord and the Tenant each acknowledged that they understood the agreement was final and binding.

Analysis

The issues in dispute in the original Application for Dispute Resolution have been settled in accordance with the aforementioned terms.

Conclusion

The issues in dispute in the original Application for Dispute Resolution have been settled.

On the basis of the settlement agreement, I grant the Landlord an Order of Possession that is effective on **at 1:00 p.m. December 31, 2022**. Once served to the Tenant, the Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

This settlement agreement is recorded on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: December 15, 2022

Residential Tenancy Branch