



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the tenants: CNL, MNDCT, RR, PSF, OLC, FFT
For the landlord: OPL

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear a cross application regarding the above-noted tenancy.

The tenants' application pursuant to the Residential Tenancy Act (the Act) is for:

- cancellation of the Two Month Notice to End Tenancy for Landlord's Use (the Notice), pursuant to section 49;
- a monetary order for compensation for damage or loss under the Act, Residential Tenancy Regulation (Regulation) or tenancy agreement, pursuant to section 67;
- an order to reduce the rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order requiring the landlord to provide services or facilities as required by the tenancy agreement or the Act, pursuant to section 62;
- an order for the landlord to comply with the Act, the Regulation and/or tenancy agreement, pursuant to section 62; and
- an authorization to recover the filing fee for this application, under section 72.

The landlord applied for an order of possession under the Notice, pursuant to sections 49 and 55 of the Act.

Tenants MZ and SC (the tenants) and landlord MT (the landlord) attended the hearing. Witnesses for the landlord PB, LP and LH also attended. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing all the parties were clearly informed of the Rules of Procedure, including Rule 6.10 about interruptions and inappropriate behaviour, and

Rule 6.11, which prohibits the recording of a dispute resolution hearing. All the parties confirmed they understood the Rules of Procedure.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5,000.00."

Preliminary Issue - Unrelated Claims

Residential Tenancy Branch Rule of Procedure 2.3 states that claims made in an application for dispute resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claim regarding the Notice and the continuation of this tenancy is not sufficiently related to any of the tenants' other claims to warrant that they be heard together.

Furthermore, the hearings at the Residential Tenancy Branch are usually limited to 60 minutes. After I inquired the parties about service of the notices of hearing, the evidence and the Notice, 26 minutes had already passed.

The tenants' other claims are unrelated in that the basis for them rests largely on facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy as set out in the notice. I exercise my discretion to dismiss all of the tenants' claims with leave to reapply except cancellation of the Notice which will be decided upon.

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.

Both parties agreed to the following final and binding settlement of all issues listed in these applications for dispute resolution not severed:

1. The tenants agree to provide the landlord with vacant possession of the subject rental property on or before June 01, 2023 at 1:00 P.M.
2. The tenants will not pay rent due on May 01, 2023, in accordance with section 51(1) of the Act.
3. The tenancy is ending because of the 2 month notice dated August 13, 2022.

4. The tenants will return the original baseboard heaters, the water pressure tank and the gutters. The tenants will remove the appliances and the hot water tank.

Conclusion

As the parties have reached a settlement, I make no factual findings about the merits of these applications.

To give effect to the settlement reached between the parties and as discussed with them during the hearing, pursuant to section 63(2) of the Act, I issue an order of possession to the landlord, which is to take effect on June 01, 2023 at 1:00 P.M. The landlord is provided with this order in the above terms and must serve it on the tenants in accordance with the Act. If the tenants 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: January 13, 2023

Residential Tenancy Branch