



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

A matter regarding BURNABY MOUNTAINVIEW
APARTMENTS and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSDS-DR, FFT

Introduction

This hearing dealt with the tenant's application, filed on August 8, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- authorization to obtain a return of double the amount of the tenant's full security deposit of \$615.00, totalling \$1,230.00, pursuant to section 38; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The landlord's agent and the 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 lasted approximately 26 minutes from 1:30 p.m. to 1:56 p.m.

Both parties confirmed their names and spelling. Both parties provided their email addresses for me to send this decision to both parties after the hearing.

The landlord's agent confirmed that the landlord named in this application ("landlord") owns the rental unit. He provided the legal name of the landlord. He said that he is a resident manager, employed by the landlord. He said that he had permission to represent the landlord at this hearing. He provided the rental unit address.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("Rules") does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, both parties 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. I informed them that I could not provide legal advice to

them. 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.

Preliminary Issue – Direct Request Proceeding and Service

This hearing was originally scheduled as a direct request proceeding, which is an ex-parte, non-participatory hearing. A decision is made on the basis of the tenant's paper application only, not any participation or evidence from the landlord.

An "interim decision," dated October 18, 2022, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing.

By way of the interim decision, the tenant was required to serve the interim decision and notice of reconvened hearing, dated October 19, 2022, to the landlord. The landlord's agent confirmed receipt of the above documents from the tenant. In accordance with section 89 of the *Act*, I find that the landlord was duly served with the interim decision and notice of reconvened hearing.

The landlord's agent confirmed receipt of the tenant's original application for dispute resolution by direct request. In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenant's original application for dispute resolution by direct request.

Settlement Terms

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 and orders.

During the hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute and arising out of this tenancy.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time and arising out of this tenancy:

1. The landlord agreed to pay the tenant \$850.00 total, by way of a cheque, to be delivered personally to the tenant by March 28, 2023;
2. The tenant agreed to bear the cost of the \$100.00 filing fee paid for this application;
3. The tenant agreed that this settlement agreement constitutes a final and binding resolution of his application and any issues arising out of this tenancy;
4. Both parties agreed that they will not initiate any future claims or applications against each other at the RTB, with respect to any issues arising out of this tenancy.

These particulars comprise the full and final settlement of all aspects of this dispute and arising out of this tenancy.

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 and arising out of this tenancy.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this 26-minute hearing. Both parties were provided with ample time during this hearing, to ask questions, think about, negotiate, discuss, and decide about the above settlement terms.

The landlord's agent affirmed that he had permission to make this agreement on behalf of the landlord.

Conclusion

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

In order to implement the above settlement and as discussed with both parties during this hearing, I issue a monetary Order in the tenant's favour in the amount of \$850.00. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlord fails to pay the tenant \$850.00 as per condition #1 of the above agreement. The landlord must be served with a copy of this Order. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The tenant 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: March 23, 2023

Residential Tenancy Branch