



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding MAPLE CREST HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPQ, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession based on a Two Month Notice to End Tenancy because the Tenant Does Not Qualify for Subsidized Rental Unit, dated May 24, 2022, ("2 Month Notice"), pursuant to section 55; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The landlord's agent, the tenant, and the tenant's wife 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 began at 11:00 a.m. with only me present. The tenant called in late at 11:01 a.m. The landlord's agent called in late at 11:02 a.m. This hearing ended at 11:27 a.m. This hearing lasted approximately 27 minutes.

The landlord's agent confirmed the names and spelling for her and the landlord company ("landlord") named in this application. The tenant confirmed the names and spelling for him and his wife. The landlord's agent and the tenant provided their email addresses for me to send this decision to both parties after the hearing.

The landlord's agent confirmed that she is a property manager for a management company agent for the owner. She said that the landlord owns the rental unit. She stated that she had permission to represent the management company and the landlord, at this hearing. She provided the rental unit address.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, the landlord’s agent and the tenant both separately affirmed, under oath, that they would not record this hearing.

The tenant claimed that his wife was present during this hearing. She did not testify at this hearing.

At the outset of this hearing, I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. I repeatedly 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 repeatedly affirmed that they were ready to proceed, they wanted to settle this application, and they did not want me to make a decision. At the outset of this hearing, the tenant chose the option of settlement first, after I repeatedly explained the hearing and settlement options to him throughout this hearing. I repeatedly cautioned the tenant that by settling this application, he was voluntarily agreeing to settlement terms with the landlord, and I would not be making a decision regarding this application.

I repeatedly cautioned the tenant that if I granted the landlord’s application, I would uphold the landlord’s 2 Month Notice, end the tenant’s tenancy, and issue a two (2) day order of possession against the tenant. I repeatedly cautioned the tenant that since he did not file an application at the RTB to dispute the landlord’s 2 Month Notice at all or within 15 days as noted on page 1 of the notice, there was a presumption that he would vacate the rental unit pursuant to the notice, and I could end the tenancy based on the notice, if it complies with section 52 of the *Act*.

The tenant repeatedly affirmed that he was not prepared for the above consequences if that was my decision. The tenant repeatedly affirmed that he wanted to settle this application with the landlord, even though the landlord wanted to discuss a date to end his tenancy, but he wanted to discuss more time to move out of the rental unit.

I repeatedly cautioned the landlord’s agent that if I cancelled the landlord’s 2 Month Notice, I would not issue an order of possession to the landlord against the tenant, and this tenancy would continue. The landlord’s agent repeatedly affirmed that she wanted to settle this application with the tenant. The landlord repeatedly affirmed that she

would discuss a later end of tenancy date, to provide the tenant more time to move out, since the tenant requested same.

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

The tenant confirmed that he did not submit any documentary evidence for this hearing.

Preliminary Issue – Inappropriate Behaviour by the Tenant during this Hearing

Rule 6.10 of the RTB *Rules* states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing
Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

Throughout this hearing, the tenant repeatedly interrupted me, argued with me, repeatedly asked me the same questions, repeatedly asked me for legal advice, and repeatedly changed his submissions.

I repeatedly cautioned the tenant, but he continued with his inappropriate behaviour. This hearing lasted longer because of the tenant's repeated interruptions, arguments, and inappropriate behaviour.

However, I allowed the tenant to attend the full hearing, despite his inappropriate behaviour, in order to allow the tenant to settle this application, as requested by him at the outset of this hearing.

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 this hearing, the parties discussed the issues between them, 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 currently under dispute at this time:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on June 30, 2023, by which time the tenant and any other occupants will have vacated the rental unit;
2. The landlord agreed to bear the cost of the \$100.00 filing fee paid for this application;
3. The landlord agreed that this settlement agreement constitutes a final and binding resolution of the landlord's application.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties understood and agreed to the above terms, free of any duress or coercion. Both parties understood and agreed that the above terms are legal, final, binding, and enforceable, which settle all aspects of this dispute.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this 27-minute hearing. Both parties had opportunities to ask questions and to negotiate and discuss the settlement terms in detail.

I repeatedly informed the tenant that I would not make a decision regarding the landlord's application. I repeatedly notified him that he voluntarily chose to settle the landlord's application at the outset of this hearing, after the settlement and hearing options and consequences were repeatedly explained to him by me. I repeatedly informed the tenant that the order of possession was enforceable in the Supreme Court of British Columbia and that it was up to the landlord to enforce the order and the landlord could hire a bailiff to remove the tenant and any other occupants and belongings from the rental unit.

The tenant was given ample time and multiple opportunities throughout this hearing, to think about, review, discuss, and decide about the above settlement terms. The tenant proposed the above move-out date of June 30, 2023, which was accepted by the landlord's agent.

Conclusion

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

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue the attached Order of Possession to be used by the landlord **only** if the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on June 30, 2023. The tenant must be served with this Order. 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.

The landlord 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 14, 2023

Residential Tenancy Branch