



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNL, RP, OLC, FFT; LRE, LAT, OLC

Introduction

This hearing dealt with the tenants' first application, filed on October 23, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlords' Two Month Notice to End Tenancy for Landlord's Use of Property, dated October 25, 2022, effective December 31, 2022 ("2 Month Notice"), pursuant to section 49;
- an order requiring the landlords to complete repairs to the rental unit, pursuant to section 32;
- an order requiring the landlords to comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 62; and
- authorization to recover the \$100.00 filing fee paid for their first application, pursuant to section 72.

This hearing also dealt with the tenants' second application, filed on December 5, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- an order restricting the landlords' right to enter the rental unit, pursuant to section 70;
- authorization to change the locks to the rental unit, pursuant to section 70; and
- an order requiring the landlords to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62.

The two landlords, landlord VG ("landlord") and "landlord JH," and the two tenants, "tenant IK" and tenant PCZ ("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 52 minutes.

This hearing began at 9:30 a.m. I asked all participants to remove their telephones from speakerphone, because it was causing echoing and feedback, and it was difficult for me to hear. Landlord JH left the hearing and called back in on a separate telephone line in a separate room from the landlord, at 9:34 am. The tenant left the hearing from 9:46 a.m. to 9:48 a.m., stating that his telephone headset battery died. This hearing ended at 10:22 a.m.

All hearing participants confirmed their names and spelling. The landlord provided her email address, and the tenant provide her mailing address for me to send this decision to both parties after the hearing.

The landlord identified herself as the primary speaker for the landlords at this hearing and landlord JH agreed to same. The landlords confirmed that they co-own the rental unit. The landlord provided the rental unit address.

The tenants identified the tenant as the primary speaker for the tenants at this hearing.

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, all hearing participants 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 repeatedly informed both parties that I could not provide legal advice to them or act as their agent or advocate. Both parties had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests. Both parties confirmed that they wanted to proceed with this hearing.

Preliminary Issue – Service of Documents

The landlord confirmed receipt of the tenants’ first application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that both landlords were duly served with the tenants’ first application.

The tenant confirmed receipt of the landlords’ evidence. In accordance with section 88 of the *Act*, I find that both tenants were duly served with the landlords’ evidence.

During this hearing, the tenant confirmed that the tenants filed a second application, which has been scheduled for a future RTB hearing on April 14, 2023 at 11:00 a.m. The file number for the tenants' second application appears on the cover page of this decision. The landlord confirmed receipt of the tenants' second application. In accordance with section 89 of the *Act*, I find that both landlords were duly served with the tenants' second application.

Preliminary Issue – Dismissal of Tenants' Two Applications

At the outset of this hearing, the tenant confirmed that the tenants moved out of the rental unit on October 17, 2022, they did not intend to move back into the rental unit, and they have been living at another unit since the above date.

Both parties agreed that the tenants left some of their belongings at the rental unit, that still remain there, as of the date of this hearing. Both parties agreed that this tenancy will end by 1:00 p.m. on March 12, 2023, by which time the tenants and any other occupants will have vacated the rental unit. Both parties agreed that the landlords are entitled to enter the rental unit and ensure that it is safe for the tenants to remove their belongings and the landlords will ensure this safety is completed by 1:00 p.m. on March 5, 2023.

I informed both parties that both of the tenants' applications were dismissed in their entirety, without leave to reapply, including the \$100.00 filing fee. I notified them that the tenants' claims in both applications relate to an ongoing tenancy only, they moved out, and they had no intention to return to the rental unit. I informed them that the landlords' 2 Month Notice, dated October 25, 2022, was cancelled and of no force or effect. Both parties affirmed their understanding of the above information.

I notified both parties that the future RTB hearing, for the tenants' second application, scheduled for April 14, 2023 at 11:00 a.m., is cancelled and neither party is required to attend the future hearing. Both parties affirmed their understanding of same.

Conclusion

I grant an Order of Possession to the landlord(s) effective at 1:00 p.m. on March 12, 2023. The tenant(s) must be served with a copy of this Order. Should the tenant(s) or any other occupants on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Both of the tenants' applications are dismissed in their entirety, without leave to reapply.

The landlords' 2 Month Notice, dated October 25, 2022, is cancelled and of no force or effect.

The future RTB hearing, for the tenants' second application, scheduled for April 14, 2023 at 11:00 a.m., is cancelled and neither party is required to attend the future hearing.

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 06, 2023

Residential Tenancy Branch