



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNL, MNDCT, DRI, RP, PSF, LRE, OLC, FFT

Introduction

This hearing was convened as a result of the Tenants' application under the *Residential Tenancy Act* (the "Act") for:

- cancellation of a Two Month Notice to End Tenancy for Landlord's Use of Property dated December 16, 2022 (the "Two Month Notice") pursuant to section 49;
- compensation of \$10,500.00 for monetary loss or money owed by the Landlord pursuant to section 67;
- cancellation of a rent increase in the amount of \$450.00 pursuant to section 41;
- an order for the Landlord to make repairs to the rental unit pursuant to section 32;
- an order that the Landlord provide services or facilities required by law pursuant to sections 27 and 62;
- an order suspending or setting conditions on the Landlord's right to enter the rental unit pursuant to section 70(1);
- an order that the Landlord comply with the Act, the regulations, or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the Landlord pursuant to section 72.

The Landlord, one of the Tenants MO, and the Tenants' assistant JC attended this hearing and gave affirmed testimony.

Preliminary Matter – Correction of Landlord

This application initially provided a farm name for the landlord and respondent. The Landlord confirmed that is the name of the property, but not the legal owner. The Landlord testified that he is a joint owner of the property. By consent of the parties and

pursuant to section 64(3)(c) of the Act, I have amended this application to name the individual Landlord as landlord and respondent.

Preliminary Matter – Severing the Tenants' Other Claims

Rules 2.3 and 6.2 of the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") state as follows:

2.3 Related issues

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

6.2 What will be considered at a dispute resolution hearing

The hearing is limited to matters claimed on the application unless the arbitrator allows a party to amend the application.

The arbitrator may refuse to consider unrelated issues in accordance with Rule 2.3 [*Related issues*]. For example, if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession, the arbitrator may decline to hear other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply.

(emphasis underlined)

The Tenants have applied to cancel a notice to end tenancy and have included other claims in this application. Aside from the claim to recover the filing fee, I find the Tenants' other claims in this application are unrelated to Two Month Notice. Pursuant to Rule 6.2 of the Rules of Procedure, I sever and dismiss those unrelated claims with leave to re-apply.

MO confirmed that the Tenants did receive a fee waiver for this application. Accordingly, I dismiss the Tenants' claim for reimbursement of the filing fee without leave to re-apply.

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 partial resolution of their dispute.

The parties agreed to the following final and binding settlement of the Tenants' claim to cancel the Two Month Notice:

1. The effective date of the Two Month Notice is extended to August 2, 2023. The Tenants and any other occupant will vacate the rental unit by 1:00 pm on August 2, 2023.
2. The Tenants may withhold payment of rent to the Landlord for the month of July 2023 (monthly rent is \$1,400.00, covering the period from July 3, 2023 to August 2, 2023) as the Tenants' compensation under section 51(1) of the Act.
3. If the Tenants wish to move out prior to August 2, 2023, the Tenants must give the Landlord at least ten days' written notice and ensure that rent is paid to the effective date of that notice. Provided the Tenants do so, the tenancy will end on the effective date of the Tenants' notice, and the Landlord will pay the Tenants one month's rent as compensation under section 51(1) of the Act by the effective date of that notice.

The parties gave verbal affirmation at the hearing that they understood and agreed to the above terms as final, binding, and enforceable, which settle the Tenants' claim to dispute the Two Month Notice only.

For the parties' reference, section 51(1) of the Act states as follows:

Tenant's compensation: section 49 notice

51(1) A tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

I take this opportunity to further remind the parties that their rights and responsibilities under the Act, the regulation, and the tenancy agreement will continue for the duration of the tenancy. Pursuant to section 60 of the Act, either party may make claims related to the tenancy within two years of the date that the tenancy ends.

Conclusion

As the parties have reached a settlement, I make no factual findings about the merits of the Tenants' claim to dispute the Two Month Notice.

To give effect to the settlement reached between the parties and as discussed at the hearing, I grant the Landlord an Order of Possession which orders that the Tenants and any other occupant provide vacant possession of the rental unit to the Landlord by **1:00 pm on August 2, 2023**. This Order may be served upon the Tenants, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Tenants' claim for reimbursement of the filing fee is dismissed without leave to re-apply. The remainder of the Tenants' claims in this application is severed under the Rules of Procedure and dismissed with leave to re-apply. Leave to re-apply does not extend any applicable limitation periods.

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: May 1, 2023

Residential Tenancy Branch