



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **CNC FFT**

Introduction

This hearing was convened as a result of an application for dispute resolution (Application) made by the Tenants under the *Residential Tenancy Act* (the Act). The Tenants seek:

- an order cancelling a One Month Notice for Cause dated January 25, 2023 (1 Month Notice) pursuant to section 47; and
- authorization to recover the filing fee for the Application from the Landlord pursuant to section 72.

The Landlord and one of the two Tenants (MT) attended the hearing. I explained the hearing process to the parties who did not have questions when asked. I told the parties they were not allowed to record the hearing pursuant to the *Residential Tenancy Branch Rules of Procedure* (RoP). The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

MT did not provide any evidence the Tenants served the Landlord with the Notice of Dispute Resolution (NDRP). The Landlord stated she did not receive the NDRP. The Landlord stated she received an email from the Residential Tenancy Branch (RTB) to remind her this hearing was being held. The Landlord stated she called the RTB and was provided with a copy of the NDRP. The records of the RTB confirm that Landlord called RTB on March 7, 2023. Based on the foregoing, I find the NDRP was not served on the Landlord as required by the provisions of section 89 of the Act. However, the Landlord agreed to waive her right to be served with the NDRP by the Tenants so that this hearing could proceed.

Preliminary Matter – Removal and Addition of Respondent to Application

At the outset of the hearing, I pointed out that the tenancy agreement stated the name of the Landlord was CLP and the 1 Month Notice stated the name of the landlord was the Landlord. In the Application, the Tenants used a different name (C) as the name of the respondent. The Landlord requested that I amend the Application to remove C as the respondent and to add her name as the respondent.

Rule 4.2 of the *Residential Tenancy Branch Rules of Procedure* states (“RoP”):

4.2 Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

The Landlord’s request could reasonably be anticipated by the Tenants. Pursuant to Rule 4.2 of the RoP, I order the Application to be amended to remove the name of C as a respondent and to add the Landlord as the respondent.

Settlement Agreement

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.

The parties agreed to the following final and binding settlement of all issues currently under dispute:

1. The Landlord agrees to cancel the 1 Month Notice;
2. MT agrees to withdraw the Application;

3. MT agrees to vacate the rental unit not later than 1:00 pm on July 31, 2023;
4. MT agrees to pay the rent in full on time on June 1 and July 1, 2023 in accordance with the provisions of the tenancy agreement;
5. MT may end the tenancy prior to July 31, 2023, by giving the Landlord written notice he is ending the tenancy, such notice to be served not less than 15 calendar days in advance of the date MT states in the notice that he is vacating the rental unit; and
6. The Landlord agrees that, if MT gives notice to end the tenancy before July 31, 2023, then he will not be required to pay rent, otherwise payable to the Landlord pursuant to paragraph 4 above, for the period following the date MT and any other guest or occupant vacates the rental unit.

These particulars comprise the full and final settlement of all aspects of the Tenants' dispute against the Landlord. The parties gave verbal affirmation at the hearing that they understood and agreed to the above terms as legal, final, and binding, which settle all aspects of claims made in the Application.

Conclusion

As the parties have reached a full and final settlement of the Tenants' claims set out in the Application, I make no factual findings about the merits of the Application.

I order that the 1 Month Notice to End Tenancy to be cancelled and of no force or effect.

To give effect to the settlement reached between the parties, and as discussed at the hearing, I grant the Landlord an Order of Possession effective at 1:00 pm on July 31, 2023. The Landlord are provided with this Order in the above terms and MT must be served with this Order as soon as possible. If MT fails to comply with this Order of Possession, it may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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: June 1, 2023

Residential Tenancy Branch