



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPL, FFL, CNL, AAT

Introduction

This hearing dealt with cross applications filed by the parties. On March 25, 2023, the Landlord made an Application for Dispute Resolution seeking an Order of Possession based on a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Notice") pursuant to Section 49 of the *Residential Tenancy Act* (the "*Act*") and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

On March 29, 2023, the Tenant made an Application for Dispute Resolution seeking to cancel the Notice pursuant to Section 49 of the *Act*, and seeking access to the rental unit pursuant to Section 30 of the *Act*.

S.Z. attended the hearing as the daughter of the Landlord, with Y.W. attending as the co-owner of the rental unit, S.C. attending as a translator for Y.W., and M.M. attending as an agent for the Landlord. They advised that the Landlord had recently passed away. As such, the Style of Cause on the first page of this Decision has been amended to add Y.W. as she is a co-owner of the property. The Tenant attended the hearing as well.

At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited, and they were reminded to refrain from doing so. As well, all parties in attendance provided a solemn affirmation.

Service of the respective Notice of Hearing and evidence packages was discussed, and there were some concerns with service. However, prior to submissions being made with respect to the reason the Notice was served, the parties turned their minds to reaching a full and final settlement agreement. The parties were able to reach an agreement and I have recorded the terms of agreement by way of this Decision and the Order of Possession that accompanies it.

Settlement Agreement

I raised the possibility of settlement pursuant to Section 63(1) of the *Act* which allows an Arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary, that if they chose not to discuss settlement I would make a final and binding Decision on the matter, and that if they chose to discuss settlement and did not come to an agreement, that I would make a final and binding Decision on the matter.

I advised the parties that if they did come to an agreement, I would write out this agreement in my written Decision and make any necessary Orders. I also explained that the written Decision would become a final and legally binding agreement. The parties did not have questions about discussing a settlement when asked.

The parties reached the following full and final settlement agreement during the hearing:

1. The Tenant will remain in possession the rental unit but must give up vacant possession of that rental unit on **December 31, 2023, at 1:00 PM.**
2. If condition 1 is breached, the Landlord is granted an Order of Possession that will be effective after service of the Order on the Tenant.
3. The Two Month Notice to End Tenancy for Landlord's Use of Property dated March 1, 2023, is still live and is the reason for the end of the tenancy.
4. The parties agreed that the Tenant is not entitled to the one-month compensation owed despite service of the Notice. The Tenant must pay rent for July, August September, October, November, and December 2023 as per the terms of the tenancy agreement.
5. The parties agreed that the Tenant could still apply for 12 months' compensation if the rental unit is not used for the stated purpose for a period of at least six months after December 31, 2023.

6. The parties agreed that fulfilment of these conditions would amount to full and complete satisfaction of these disputes with respect to the Notice.

This settlement agreement was reached in accordance with Section 63 of the *Act*. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that they understood the binding nature of the settlement of this dispute with respect to the Notice.

Conclusion

The parties reached a full and final settlement agreement in resolution of this dispute. I have recorded the terms of settlement in this Decision, and in recognition with the settlement agreement above, the Landlord is granted a conditional Order of Possession effective on **December 31, 2023, at 1:00 PM** after service of the Order on the Tenant. 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.

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 30, 2023

Residential Tenancy Branch