



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **CNL FFT**

Introduction

This hearing was convened by way of conference call in response to the Tenant's application for dispute resolution (Application) under the *Residential Tenancy Act* (Act) in which the Tenant seeks:

- an order to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property dated March 9, 2023 (2 Month Notice) pursuant to section 49; and
- authorization to recover the filing fee for the Application from the Landlord.

The Landlord, the co-Landlord (JB) and the Tenant attended this 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.

The Tenant stated he attempted to serve the NDRP and his evidence (NDRP Package) on the Landlord in-person but the Landlord refused to sign for it. The Tenant stated he then posted the NDRP Package on the Landlord's door. The Landlord acknowledged he received the NDRP Package on his door. I find the Landlord was served with the NDRP Package in accordance with the provisions of sections 88 and 89 of the Act.

The Landlord stated he served his evidence on the Tenant in person on April 29, 2023. The Tenant acknowledged receiving the Landlord's evidence. As such, I find the Landlord's evidence was served on the Tenant in accordance with the provisions of section 88 of the Act.

Preliminary Matter – Removal of Two Applicants from Application

At the outset of the hearing, I noted there were two additional applicants ((KB and AB) on the Application who were not named as tenants in the tenancy agreement. The Tenant stated KB and AB were his two infant daughters and he acknowledged they were not parties to the tenancy agreement. The Tenant made a request that I remove KB and AB as applicants from the Application. The Landlord did not object to the proposed amendment. 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.

I find that the Landlord could reasonably have anticipated the Tenant would request that KB and AB, both being infant children of the Tenant who were not named as tenants on the tenancy agreement. With the consent of the Landlord, I order the Application to be amended to remove KB and AB as applicants.

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 2 Month Notice;
2. The Tenant agrees to withdraw the Application;

3. The Tenant agrees to vacate the rental unit not later than 1:00 pm on August 15, 2023;
4. In accordance with the provisions of section 51(1) of the Act, the Landlord agrees:
 - (i) the Tenant is not required to pay rent for August 1 to August 15, 2023; and
 - (ii) to pay the Tenant an amount equal to $\frac{1}{2}$ of one month's rent, being \$800.00, when the Tenant vacates the rental unit on August 15, 2023;
5. This settlement is without prejudice to the rights of the Landlord and Tenant to pursue monetary claims they may have against each other for any breaches of the Residential Tenancy Act, Regulations and/or tenancy agreement and, without limiting the generality of the foregoing, this settlement is without prejudice to the right of the Tenant to pursue a claim for compensation pursuant to section 51(2) of the Act if the Landlord does not use the rental unit for the purpose stated in the 2 Month Notice.

These particulars comprise the full and final settlement of all aspects of the Tenant's 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 the claims made in the Application.

Conclusion

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

I hereby order that the 2 Month Notice 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 August 15, 2023. The Landlord is provided with the Order of Possession in the above terms and the Tenant must be served with this Order as soon as possible. If the Tenant fails to comply with the 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: July 17, 2023

Residential Tenancy Branch