



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

This hearing dealt with the Tenants' Application for Dispute Resolution (Tenant's Application) under the *Residential Tenancy Act* (the "Act") for:

- cancellation of a One Month Notice to End Tenancy for Cause (One Month Notice);
- authorization to recover the filing fee for this application from the Landlords under section 72 of the Act; and
- an amendment to the Application (Amendment) filed on January 19, 2024, seeking cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice).

This hearing also dealt with the Landlords' Application for Dispute Resolution (Landlords' Application) under the Act for:

- an Order of Possession based on the One Month Notice; and
- authorization to recover the filing fee for this application from the Tenants under section 72 of the Act.

Preliminary Matters

The Tenant acknowledged that they did not serve the Amendment regarding the 10 Day Notice on the Landlords. As a result, I declined to amend the Tenants' Application to include a dispute of the 10 Day Notice as the Landlords were not served with the Amendment and did not know prior to the hearing that the Tenants planned to dispute the 10 Day Notice at the hearing.

In any event, a decision was rendered by the Residential Tenancy Branch (Branch) on January 29, 2024, wherein the matter of the same 10 Day Notice was decided. In that decision, the file number for which is noted on the cover page of this decision, the Landlords were granted both a two-day Order of Possession and a Monetary Order for outstanding rent in relation to the 10 Day Notice. At the hearing, the Tenant acknowledged receiving the Order of Possession on February 1, 2024.

Based on the above, the hearing proceeded only on the matter of the One Month Notice and claims for recovery of the filing fees. The parties were able to settle these claims.

Analysis

Under section 63 of the Act, an Arbitrator may assist the parties to settle their dispute. 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 this hearing, the parties reached an agreement to settle their dispute.

The parties agreed to the following terms of a final and binding resolution of the Applications and they did so of their own free volition and without any element of coercion:

1. The parties agree that the tenancy will end at 1:00 pm on February 7, 2024, and the Landlords agree not to enforce the previously issued two-day order of possession before this date and time.
2. The parties agree that the condition inspection will occur at 1:00 pm on February 7, 2024, and that any previously issued notices of inspection are withdrawn in lieu of this settlement agreement.
3. The parties agree that the Landlords are considered to have received M.M.'s forwarding address for the purposes of the Act on February 2, 2024.
4. The parties agree that M.M.'s email address, which is noted on the cover page of this decision, constitutes a valid forwarding address, and may therefore be used for service under the Act.
5. The Tenant agrees to leave the rental unit in the state of decoration, repair, and cleanliness required by the Act and the tenancy agreement.
6. The parties agree that these particulars comprise the full settlement of all aspects of the Applications.

Conclusion

To give effect to the above settlement reached between the parties, and pursuant to section 63 of the Act, I grant the Landlords an Order of Possession effective 1:00 pm on February 7, 2024. The Landlords are provided with this Order in the above terms, and the Tenants must be served with a copy of this Order as soon as possible. Should the Tenants fail to comply with this Order, it may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

Pursuant to section 57(2) of the Act, the Landlords must not take actual possession of the rental unit if the Tenants overhold, unless they have a writ of possession issued under the Supreme Court Civil Rules.

This decision is made on authority delegated to me by the Director of the Branch under Section 9.1(1) of the Act.

Dated: February 02, 2024

Residential Tenancy Branch