



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes

File #910140409: CNR, FFT

File #910142824: CNR, OLC, FFT

Introduction

The Tenant seeks the following relief under the *Residential Tenancy Act* (the “Act”):

- an order pursuant to s. 46 cancelling a 10-Day Notice to End Tenancy for Unpaid Rent signed on January 12, 2024 (the “January 10 Day Notice”); and
- return of the filing fee pursuant to s. 72.

A.F. attended as the Tenant. The Tenant was joined by K.P., who identified himself as a subtenant and the son of the Landlord. C.P. attended as the Landlord.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

Service of Documents

The parties advise that they served their application materials on the other side. Both parties acknowledge receipt of the other’s application materials without objection. Based on the mutual acknowledgments of the parties without objection, I find that pursuant to s. 71(2) of the *Act* that the parties were sufficiently served with the other’s application materials.

Joining of Applications

At the outset of the hearing, the Tenant advised that they had filed a separate application disputing a 10-Day Notice to End Tenancy for Unpaid rent that had been served in February 2024. The Landlord's evidence contains a copy the notice, which was signed on February 2, 2024 (the "February 10 Day Notice"). I was provided with a file number for the separate dispute. Review of the most recent application shows it was filed on February 6, 2024.

It was requested by the Tenant that the two applications be joined. The Landlord took no issue with doing so, given the issue in dispute, being that of unpaid rent, is the same across both notices to end tenancy.

I accept that the Landlord had little notice of the second application given the hearing on the original application was scheduled for February 12, 2024. Despite this, I find that joining the applications is appropriate given that the issues raised in both applications are essentially the same such that the second application is a continuation of the issue in dispute in the first.

I do not, however, permit the joinder of the Tenant's claim for an order under s. 62 of the *Act* that the Landlord comply contained in the second application. Review of the claim as pled in the second application shows that it is in relation to a disputed rent increase. I find that this is not sufficiently related to the issue of whether the January 10 Day Notice or the February 10 Day Notice are enforceable. This portion of the claim is severed under Rule 2.3 of the Rules of Procedure and is dismissed from the application.

I further note that the K.P. is listed as a tenant in the second application, despite my being advised that he occupied a basement suite at the property under a subtenancy he had with A.F.. I have also been provided with a copy of the tenancy agreement, which only lists A.F. as the Tenant.

In the interest of keeping the style of cause consistent for the joined applications, I have removed K.P. from the second application as it is not disputed that he is not a tenant to the Landlord. This point is clear based on the submissions made at the hearing and the tenancy agreement itself. I advised the parties that I would do so and neither side raised issue with doing so. Accordingly, I have removed K.P. as a party to this dispute.

Also, I have amended the spelling of the Tenant's name in this matter such that it reflects the naming used in the tenancy agreement, which ought to be the correct legal spelling of their name as per Policy Guideline #43.

Parties' Settlement

Pursuant to section 63 of the *Act*, I 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, turned their minds to compromise and achieved a resolution of their dispute.

The parties were advised that they were under no obligation to enter into a settlement agreement. Both parties agreed to the following settlement on all issues in dispute in this application:

1. The tenancy will end on March 31, 2024.
2. The Landlord agrees to waive any claim for any outstanding unpaid rent he may have against the Tenant.
3. The Landlord agrees that the Tenant is entitled to 1 month's rent in compensation under s. 51(1) of the *Act* after having been served with a Two-Month Notice to End Tenancy for Landlord's Use of the Property.

I confirmed each detail of the settlement with the Landlord and the Tenant. Both parties confirmed having understood each term of the agreement.

Pursuant to the parties' settlement, I grant the Landlord an order of possession. The Tenant and any other occupants shall provide vacant possession of the rental unit to the Landlord by no later than 1:00 PM on March 31, 2024. To be clear, the order of possession relates to the headlease and once it is terminated the sublease is also terminated as per Policy Guideline #19.

Since the parties were able to agree to settle their dispute, I find that neither party shall recover their filing fee from the other. The Tenant shall bear their own costs for their applications and their claims for return of their filing fee are dismissed without leave to reapply.

I make no findings of fact or law with respect to this dispute. Nothing in this settlement agreement is to be construed as a limit on either parties' entitlement to compensation or other relief to which they may be entitled to under the *Act*.

It is the Landlord's obligation to serve the order of possession on the Tenant. Should the Tenant fail to comply with the order of possession, it may be enforced by the Landlord at the BC Supreme 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: February 12, 2024

Residential Tenancy Branch