



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNL, MNDCT, RR, RP, LRE, LAT, RPP, OLC / CNL, RR, RP, LRE, OLC

Introduction

The hearing was convened following two Applications for Dispute Resolution (Applications) from the Tenants under the *Residential Tenancy Act* (the Act), which were joined to be heard simultaneously.

In their first Application the Tenants request the following:

1. An order cancelling a Two Month Notice to End Tenancy for Landlord's Use of Property (the Notice) under section 49(8)(a) of the Act;
2. A Monetary Order for compensation under section 67 of the Act;
3. An order to reduce the rent for repairs, services or facilities agreed upon but not provided, under section 65 of the Act;
4. An order requiring the Landlord to carry out repairs to the rental unit under section 32 of the Act;
5. An order to suspend or set conditions on the Landlord's right of entry to the rental unit under section 70 of the Act;
6. An order of authorization to change the locks to rental unit under sections 31 and 70 of the Act;
7. An order for the Landlord to return the Tenants' personal property under section 65 of the Act; and
8. An order for the Landlord to comply with the Act, the *Residential Tenancy Regulation* (the Regulation), or tenancy agreement under section 62 of the Act.

In their second Application the Tenants requested what were in effect duplicates of the claims numbered at 1, 3, 4, 5 and 8 above.

Preliminary Issues

Matters Already Decided

Tenant CS submitted a previous application for dispute resolution as a sole applicant, which was discussed at a hearing on July 29, 2024. In a decision dated August 1, 2024, the application was dismissed without leave to reapply. The file number for the previous dispute is listed on the front page of this Decision for reference.

Having reviewed the five matters raised in the previous application, I find they are duplicates of the issues listed at numbers 2, 3, 5, 6 and 8 in this Application. Given this, I find these matters have already been decided upon and I do not have jurisdiction to hear them. Matters 1, 4 and 7 have yet to be heard by an arbitrator of the Residential Tenancy Branch.

Though there are two separate written tenancy agreements, one listing just CS as a tenant, and one with just AM as a tenant, I find that given the Tenants make one payment for rent together for the amount shown on both tenancy agreements, and they appear to share the rental unit, I find they are Co-Tenants under one agreement, not tenants in common under separate agreements. They are therefore jointly and severally liable under the agreement and AM's omission as a party to the previous application is of no consequence.

Severing

The Tenants applied for multiple remedies under the Act, some of which were not sufficiently related to one another.

Rule 2.3 of the *Rules of Procedure* states that claims made in an application must be related to each other. Rule 6.2 of the *Rules of Procedure* states that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After reviewing the issues raised by the Tenants, I determined that the primary issue is their request to cancel the Notice and the other issues listed at 4 and 7 above were not sufficiently related, though ultimately during the hearing the parties were able to come to a partial settlement of claim number 4 for an order for repairs. I therefore exercised my discretion to dismiss with leave to re-apply, the remainder of all claims other than the one related to the Notice. Leave to reapply is not an extension of any applicable time limit.

Settlement

Per section 63 of the Act, an arbitrator may assist the parties to settle their dispute. Section 64.2 of the Act states that 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 were able to reach a compromise and achieved a resolution of this dispute on mutually agreed terms.

Both parties agreed to the following final and binding settlement of the Tenants' request to cancel the Notice and for an order for repairs to the deck, hot water heater and sink in the rental unit:

- The Tenants will provide the Landlord with vacant possession of the rental unit by 1:00 PM on February 28, 2025.
- The Tenants may provide the Landlord with 10 days' notice to end the tenancy before February 28, 2025, rather than the period of at least a month required under section 45 of the Act. Should the Tenants use the 10 day notice period to end the tenancy mid-month, the Landlord will reimburse to the Tenants the rent paid for the remainder of the month.
- The tenancy is ended by mutual agreement and is not ended under the Notice, therefore:
 - The Tenants are not entitled to one month's rent in compensation under section 51(1) of the Act.
 - The Landlord is not required to occupy the rental unit as stated on the Notice and may do with the rental unit what they please after the tenancy ends.
 - The Tenants are not entitled to make a future claim against the Landlord for compensation equivalent to twelve months' rent under section 51(2) of the Act.
- The Landlord will carry out the repairs required to the decking of the rental unit by no later than October 31, 2024.
- The Landlord will carry out the repairs required to the hot water heater within 30 days of this Decision.
- The Landlord will, by no later than August 29, 2024, inspect the sink in unit 2 to assess the scope of repairs required and will by no later than September 12, 2024 carry out the required repairs.
- In order to gain access to the rental unit, the Landlord will first email notice of entry to both Tenants using the email addresses on the front page of this

Decision. The parties understand that a record sent by email is deemed received three days after it is sent, and any 24 hours' notice of Landlord's entry must take this into account. The parties understand the Tenants may respond to the Landlord's email and agree upon a time for the Landlord to access the rental unit sooner than that listed on the notice of entry.

To give effect to the settlement reached between the parties and, as discussed with them during the hearing, per section 64.2 of the Act, I issue an Order of Possession to the Landlord which is to take effect by 1:00 PM on February 28, 2025.

As the parties have reached a settlement, I make no factual findings about the merits of these Applications.

Conclusion

The parties agreed to settlement on final and binding terms.

The Landlord is issued an Order of Possession effective 1:00 PM on February 28, 2025. A copy of the Order of Possession is attached to this Decision and must be served on the Tenants as soon as possible. If the Tenants do not comply with the Order of Possession, it may be filed by the Landlord with 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 Act.

Dated: August 22, 2024

Residential Tenancy Branch