

DECISION

Introduction

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

- cancellation of the Landlord's One Month Notice to End Tenancy for Cause (One Month Notice) and an extension of the time limit to dispute the One Month Notice under sections 47 and 66 of the Act

This hearing also dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- an Order of Possession based on a mutual agreement to end the tenancy under sections 44 and 55 of the Act
- an Order of Possession based on a One Month Notice to End Tenancy for Cause (One Month Notice) under sections 47 and 55 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

The Tenant G.K.C. attended the hearing for the Tenant.

The Landlord's Agent J.R. attended the hearing for the Landlord.

Preliminary Matters

Section 44(c) of the Act provides that a landlord and a tenant may agree in writing to end a tenancy.

Section 55(2)(d) of the Act provides that a landlord may request for an order of possession if the landlord and the tenant have agreed in writing that the tenancy is ended.

Section 64(3) of the Act provides the director with the authority to amend an application for dispute resolution.

At the hearing, the parties agreed that a Mutual Agreement to End a Tenancy (the Mutual Agreement) was signed on September 11, 2024. At the hearing, the Landlord was given an opportunity to submit a copy of the Mutual Agreement to the cross application.

I have before me a copy of the signed and completed Mutual Agreement, the effective date is 2:00 PM on September 20, 2024. The Mutual Agreement contains the address of the rental unit and the Landlord's address.

The Landlord's Agent J.R. testified that they did not cancel the hearing scheduled for the application and the cross application because they did not want to compromise their chance to obtain an Order of Possession, or go through another application to request for an Order of Possession based on the Mutual Agreement.

Under section 64(3) of the Act, I amend the Landlord's cross application to add the issue – the Landlord requests for an Order of Possession based on a mutual agreement to end the tenancy under sections 44 and 55 of the Act.

Given that neither parties disputed the validity of the Mutual Agreement, I find that the parties exercised their right to mutually agree to end the tenancy under section 44(c) of the Act. Consequently, I grant the Landlord's request for an Order of Possession based on section 55(2)(d) of the Act.

I find that the effective date of the Mutual Agreement is an appropriate date for the Landlord's Order of Possession.

Regarding the Tenant's application to dispute the One Month Notice, and the Landlord's cross application to request for an Order of Possession based on the One Month Notice, I find that the issues in both the application and the cross application is no longer relevant given that the parties have already agreed to the end of the tenancy via a mutual agreement.

Accordingly, I decline to adjudicate the validity of the One Month Notice. I dismiss the Tenant's application with leave to reapply, and I dismiss the Landlord's cross application with leave to reapply.

Conclusion

The tenancy will end based on the Mutual Agreement.

The Landlord is granted an Order of Possession for the effective date of the Mutual Agreement, specifically September 20, 2024. Should the Tenant or any occupant on the premises fail to comply with the terms of the Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The Tenant's application is dismissed, with leave to reapply.

The Landlord's application is dismissed, with leave to reapply.

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: September 11, 2024

Residential Tenancy Branch