



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNRL-S, MNDCL-S, FFL; CNR, CNC, OLC

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent and for cause, pursuant to section 55;
- a monetary order for unpaid rent and for compensation under the *Act, Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for his application, pursuant to section 72.

This hearing also dealt with the tenants' cross-application pursuant to the *Act* for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated April 2, 2019 ("10 Day Notice"), pursuant to section 46;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause, dated April 2, 2019 ("1 Month Notice"), pursuant to section 47; and
- an order requiring the landlord to comply with the *Act, Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 62;

"Tenant OM" did not attend this hearing, which lasted approximately 49 minutes. The landlord and his agent, and tenant LC ("tenant") and her advocate attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The landlord confirmed that his agent had authority to speak on his behalf at this hearing. The tenant confirmed that her advocate had permission to speak on behalf of the tenants at this hearing. The tenant was authorized to speak on behalf of tenant OM, as she is the minor child of the tenant (collectively "tenants").

The hearing began at 9:30 a.m. The landlord's agent exited the call without warning at approximately 10:00 a.m. and did not return. The landlord chose to continue the hearing in his agent's absence. The hearing ended at 10:19 a.m.

Both parties confirmed receipt of the other party's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that both parties were duly served with the other party's application.

During the hearing, both parties confirmed that there is a "future hearing" scheduled for the tenants' application on June 24, 2019 at 1:30 p.m. The landlord confirmed that he received the tenants' application. Both parties agreed to settle the tenants' application at this hearing and confirmed that they would not attend the future hearing because it is cancelled by way of this agreement.

Settlement Terms

Pursuant to section 63 of the *Act*, the 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 and orders. During the hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. The tenants agreed to pay the landlord full rent of \$1,400.00 by June 1, 2019 by way of e-transfer to the email address confirmed by the landlord during the hearing, and the landlord agreed to accept the rent and not refuse it, and that if the payment goes through the landlord cannot enforce the order of possession against the tenants;
2. Both parties agreed that this tenancy will end by 1:00 p.m. on June 30, 2019, by which time the tenants and any other occupants will have vacated the rental unit, in the event that the tenants abide by condition 1 of the above settlement;
3. Both parties agreed that this tenancy will end pursuant to a two (2) day Order of Possession, if the tenants do not abide by condition 1 of the above settlement;
4. The tenants agreed to pay the landlord \$3,000.00 total for unpaid rent by way of e-transfer to the email address confirmed by the landlord during the hearing, and the landlord agreed to accept it and not refuse it, according to the following payment plan:

- a. \$1,000.00 by August 1, 2019;
 - b. \$1,000.00 by September 1, 2019;
 - c. \$1,000.00 by October 1, 2019;
5. The landlord agreed to bear the cost of the \$100.00 filing fee paid for his application;
6. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the tenants' application scheduled for a future hearing at 1:30 p.m. on June 24, 2019, arising out of this tenancy, the file number of which appears on the front page of this decision;
 - a. Both parties confirmed that they would not be attending the future hearing which is hereby cancelled by way of this settlement;
7. Both parties agreed that the previous RTB hearing and decision of March 28, 2019, from a different Arbitrator, did not dismiss the landlord's application for unpaid rent without leave to reapply and therefore the landlord can collect unpaid rent from the tenants;
8. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both parties' applications.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute.

Conclusion

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue the attached two (2) day Order of Possession to be used by the landlord **only** if the tenants do not abide by condition 1 of the above settlement. The landlord is provided with this Order in the above terms and the tenants must be served with this Order as soon as possible after she does not comply with the above agreement. Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In the event that the tenants abide by condition 1 of the above settlement, this tenancy continues only until 1:00 p.m. on June 30, 2019.

In order to implement the above settlement reached between the parties, and as advised to both parties during the hearing, I issue a monetary Order in the landlord's favour in the amount of \$3,000.00, as this is the current rent amount owing as of the

date of this hearing. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenants fail to pay the landlord \$3,000.00 as per condition #4 of the above agreement. The tenants must be served with a copy of this Order. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I notified the landlord that if June 2019 rent of \$1,400.00 was unpaid in the future, he could apply for a separate monetary order at the RTB, as this amount was not yet due at the time of this hearing on May 27, 2019.

The landlord must bear the cost of the \$100.00 filing fee paid for his application.

The tenants' application, scheduled for a future hearing on June 24, 2019 at 1:30 p.m., is settled by way of this agreement and neither party is required to attend the future hearing.

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: May 27, 2019

Residential Tenancy Branch