



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC FFT OLC RP**

Introduction

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

- An order to cancel a One Month Notice to End Tenancy for Cause pursuant to section 47;
- Authorization to recover the filing fees from the landlord pursuant to section 72;
- An order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62; and
- An order for regular repairs to be made to the rental unit pursuant to section 32.

The tenant BB ("tenant") and the landlord attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

As both parties were in attendance, I confirmed service of documents. The landlord acknowledges service of the tenant's application for dispute resolution and evidence filed with the application at commencement. The landlord disputes receiving any subsequent evidence filed by the tenant on April 25th. The tenant acknowledges receipt of the landlord's evidence first set of evidence, but disputes receiving any additional evidence filed by the landlord on May 3rd and May 6th.

Preliminary Issue

Both parties filed additional evidence outside the time frames set out in Rules 3.14 and 3.15 of the Rules of Procedure which state the applicant's evidence must be received by the respondent not less than 14 days before the hearing and the respondent's evidence must be received by the applicant not less than 7 days before the hearing. In accordance with Rules 3.14 and 3.15, evidence exchanged outside the time limits as

set out in the Rules was excluded. In accordance with section 88 and 89 of the Act, I am satisfied that, with the exception of the excluded evidence stated above, the parties were served with their respective documents and evidence.

Preliminary Issue – Unrelated Issues

Rules 2.3 and 6.2 of the Residential Tenancy Branch Rules of Procedure (“Rules”) allow an arbitrator to consider whether issues are related and if they would be heard at the same time. I determined the issue of whether to cancel the landlord’s one month notice to end tenancy for cause (“Notice”) was unrelated to the tenants’ other issues and heard only the issue of whether to cancel the Notice, dismissing the other issues with leave to reapply at the commencement of the hearing.

Settlement Reached

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 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.

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

1. The tenant(s) will sign a new tenancy agreement with the landlord on Monday, May 13, 2019 by 12:00 noon.
2. The new tenancy agreement will include specific terms regarding the prohibition of smoking or growing of any cannabis and the smoking of any tobacco products in the rental unit.
3. The One Month Notice to End Tenancy for Cause signed by the landlord on March 15, 2019 is cancelled and of no further force and effect.
4. The rights and obligations of the parties under the *Act* continue until the tenancy ends in accordance with the Act.
5. This settlement comprises the full and final settlement of the tenants’ application.

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.

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 10, 2019

Residential Tenancy Branch