



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, LRE (Tenant)
 OPRM-DR, FFL (Landlord)

Introduction

This hearing was convened by way of conference call in response to cross Applications for Dispute Resolution filed by the parties.

The Tenant filed the application January 13, 2020 (the “Tenant’s Application”). The Tenant applied to dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 04, 2020 (the “10 Day Notice”) and to suspend or set conditions on the Landlord's right to enter the rental unit.

The Landlord filed the application January 17, 2020 (the “Landlord’s Application”). The Landlord applied for an Order of Possession based on the 10 Day Notice, to recover unpaid rent and for reimbursement for the filing fee.

The Tenant appeared at the hearing with S.A. to assist. The Landlord appeared at the hearing. The Landlord said he would call a witness if required. I did not hear from the witness as the parties came to a settlement agreement.

Pursuant to rule 2.3 of the Rules of Procedure, I told the Tenant at the outset that I would consider the dispute of the 10 Day Notice but not the request to suspend or set conditions on the Landlord's right to enter the rental unit as this is not sufficiently related to the dispute of the 10 Day Notice. The request to suspend or set conditions on the Landlord's right to enter the rental unit is dismissed with leave to re-apply. This does not extend any time limits set out in the *Residential Tenancy Act* (the “Act”).

The Tenant submitted a One Month Notice to End Tenancy for Cause dated January 04, 2020. The Tenant did not amend his application to include a dispute of the One Month Notice. S.A. advised that the Tenant was disputing the One Month Notice. I told

the parties I would deal with the One Month Notice but noted that the Tenant should have filed an amendment to dispute this.

I explained the hearing process to the parties who did not have questions when asked. The Tenant and Landlord provided affirmed testimony.

Both parties submitted evidence prior to the hearing. I addressed service of the hearing packages and evidence and no issues arose.

A written tenancy agreement was submitted as evidence and the parties agreed it is accurate.

The One Month Notice submitted does not have an effective date. I explained to the parties that the One Month Notice does not comply with section 52 of the *Act* which states:

52 In order to be effective, a notice to end a tenancy must be in writing and must

(a) be signed and dated by the landlord or tenant giving the notice,

(b) give the address of the rental unit,

(c) state the effective date of the notice.

(d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy,

(d.1) for a notice under section 45.1 [tenant's notice: family violence or long-term care], be accompanied by a statement made in accordance with section 45.2 [confirmation of eligibility], and

(e) when given by a landlord, be in the approved form.

(emphasis added)

I told the parties I would not uphold the One Month Notice or issue an Order of Possession based on it given it does not comply with section 52 of the *Act*. I told the parties I would cancel the One Month Notice.

During the hearing, I raised the possibility of settlement pursuant to section 63(1) of the Act which allows an arbitrator to assist the parties to settle the dispute.

I explained the following to the parties. Settlement discussions are voluntary. If they chose not to discuss settlement that was fine, I would hear the matter and make a final and binding decision in the matter. If they chose to discuss settlement and did not come to an agreement that was fine, I would hear the matter and make a final and binding decision in the matter. If they did come to an agreement, I would write out the agreement in my written decision and issue any necessary orders. The written decision would become a final and legally binding agreement and the parties could not change their mind about it later.

The parties did not have questions about the above and agreed to discuss settlement.

Prior to ending the hearing, I confirmed the terms of the settlement agreement with the parties. I told the parties I would issue an Order of Possession and Monetary Order. The parties confirmed they were agreeing to the settlement voluntarily and without pressure.

Settlement Agreement

The Landlord and Tenant agree as follows:

1. The parties agree that the tenancy will end by way of Mutual Agreement on April 30, 2020 at which time the Tenant will vacate the rental unit no later than 5:00 p.m.
2. The 10 Day Notice dated January 04, 2020 is cancelled.
3. The Tenant will pay the Landlord \$5,200.00 in unpaid rent by March 28, 2020.
4. The Tenant will pay the Landlord \$1,000.00 in unpaid rent by April 07, 2020.
5. If the Tenant fails to pay the Landlord \$5,200.00 in unpaid rent by March 28, 2020, the Landlord is entitled to vacant possession of the rental unit and can serve the Tenant with the Order of Possession and the Tenant must vacate the rental unit within five (5) days of being served the Order of Possession.
6. If the Tenant fails to pay the Landlord \$1,000.00 in unpaid rent by April 07, 2020, the Landlord is entitled to vacant possession of the rental unit and can serve the

Tenant with the Order of Possession and the Tenant must vacate the rental unit within five (5) days of being served the Order of Possession.

7. All rights and obligations of the parties under the tenancy agreement, other than those addressed above, will continue until the tenancy is ended in accordance with the above settlement agreement.
8. The Tenant will reimburse the Landlord for the \$100.00 filing fee.

This agreement is fully binding on the parties and is in full and final satisfaction of this dispute.

Conclusion

The Landlord is issued a **conditional Monetary Order** in the amount of \$6,300.00. If the Tenant fails to pay the Landlord for unpaid rent and the filing fee in accordance with the settlement agreement set out above, this Order must be served on the Tenant and can be enforced in the Provincial Court (Small Claims) as an order of that Court.

The tenancy will end April 30, 2020 at 5:00 p.m. by way of Mutual Agreement.

The Landlord is issued a **conditional Order of Possession** for the rental unit which must be served in conjunction with this decision:

- If the Tenant pays the Landlord \$5,200.00 in unpaid rent by March 28, 2020 and \$1,000.00 in unpaid rent by April 07, 2020, the Landlord **CANNOT** enforce this Order until April 30, 2020 at 5:00 p.m.
- The Landlord **CAN** enforce this Order within five (5) days of service on the Tenant **IF** the Tenant (1) fails to pay the Landlord \$5,200.00 in unpaid rent by March 28, 2020 **AND/OR** (2) fails to pay the Landlord \$1,000.00 in unpaid rent by April 07, 2020.

If the Tenant fails to vacate the rental unit in accordance with the settlement agreement set out above, the Order of Possession must be served on the Tenant and can be enforced in the Supreme Court 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: March 19, 2020

Residential Tenancy Branch