



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, MNDCT, RP, PSF, FFT

Introduction

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

- cancellation of the landlord's Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated May 5, 2021 ("10 Day Notice"), pursuant to section 46;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 62;
- a monetary order of \$422.10 for compensation under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67;
- an order requiring the landlord to complete repairs to the rental unit, pursuant to section 32;
- an order requiring the landlord to provide services or facilities required by law, pursuant to section 65; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord, the landlord's agent, the tenant, and the tenant's 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. This hearing lasted approximately 52 minutes from 11:00 a.m. to 11:52 a.m.

The landlord confirmed that her agent had permission to speak on her behalf. She confirmed that she owns the rental unit. The tenant confirmed that his advocate had permission to assist him at this hearing.

At the outset of this hearing, I informed both parties that they were not permitted to record this hearing, as per Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure*. The landlord, the landlord’s agent, the tenant, and the tenant’s advocate all separately affirmed, under oath, that they would not record this hearing.

At the outset of this hearing, I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Neither party made any adjournment or accommodation requests. Both parties confirmed that they were ready to proceed with the hearing, they wanted to settle this application, and they did not want me to make a decision, except for the tenant’s monetary claim.

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, except for the tenant’s monetary claim.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time, except for the tenant’s monetary claim:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on November 30, 2021, by which time the tenant and any other occupants will have vacated the rental unit;
2. The landlord agreed that the tenant is permitted to vacate the rental unit earlier than November 30, 2021, provided that the tenant first gives at least 14 days’ written notice by text message or email to the landlord;
3. The landlord agreed that her 10 Day Notice, dated May 5, 2021, was cancelled and of no force or effect;
4. The tenant agreed to bear the cost of the \$100.00 filing fee paid for this application;
5. The tenant agreed that this settlement agreement constitutes a final and binding resolution of his application at this hearing, except for his monetary claim.

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 at the hearing that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute, except for the tenant's monetary claim.

During the hearing, I repeatedly confirmed the above settlement terms with the tenant. The tenant repeatedly affirmed, under oath, that he was voluntarily agreeing to the above settlement terms and he understood they were legal, binding, and enforceable. The tenant repeatedly affirmed, under oath, that he agreed and understood that he could not change the settlement terms after the hearing was over and he knew it was a full and final settlement of this application, except for his monetary claim. The tenant was given ample time to discuss and review the terms of this settlement with his advocate during this hearing, and to ask questions about the above terms. This hearing lasted 52 minutes to facilitate the tenant's repeated questions and comments.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this lengthy 52-minute hearing. Both parties had opportunities to ask questions and to negotiate and discuss the settlement terms in detail. Both parties affirmed under oath that they fully understood the above settlement terms and were agreeable to them.

During the hearing, the landlord's agent confirmed that he is a plumber and he personally inspected the furnace and hot water tank at the rental unit. He confirmed that both are in proper, working order and that no repairs or replacement were required at this time. He stated that he inquired about the sulphur smell from the hot water tank and was told it was safe water and a result of well water, not the hot water tank. He said that he was told that the smell would continue if he replaced the hot water tank.

The parties were unable to settle the tenant's monetary claim for \$422.10. There was insufficient time to conduct a hearing on the merits of that claim. The tenant asked for leave to reapply. The landlord did not object to same. I exercise my discretion under Rule 2.3 of the RTB *Rules of Procedure*, to sever this portion of the tenant's application, as it is not a priority or urgent claim, as compared to the remainder of the tenant's application. This claim is dismissed with leave to reapply.

Conclusion

I order both parties to comply with all of the above settlement terms.

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue the attached Order of Possession effective at 1:00 p.m. on November 30, 2021, to be used by the landlord **only** if the tenant does not abide by condition #1 of the above settlement. The tenant must be served with a copy of this Order. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlord's 10 Day Notice, dated May 5, 2021, is cancelled and of no force or effect.

The tenant must bear the cost of the \$100.00 filing fee paid for this application.

The tenant's monetary claim for \$422.10 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 *Residential Tenancy Act*.

Dated: September 17, 2021

Residential Tenancy Branch