



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FFT

Introduction

This hearing dealt with the tenant's application, filed on August 8, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's Two Month Notice to End Tenancy for Landlord's Use of Property, dated September 3, 2022 ("2 Month Notice"), pursuant to section 49; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The landlord, the landlord's lawyer, and the tenant 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 21 minutes from 11:00 a.m. to 11:21 a.m.

All hearing participants confirmed their names and spelling. The landlord and the tenant provided their email addresses for me to send this decision to both parties after the hearing.

The landlord confirmed that she owns the rental unit. She provided the rental unit address. She identified herself as the primary speaker for the landlord at this hearing. She said that her lawyer had permission to speak on her behalf.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, all hearing participants separately affirmed that they would not record this hearing.

I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. Both parties had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests. Both parties confirmed that they were ready to proceed with this hearing, they wanted to settle this application, and they did not want me to make a decision.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package. The tenant confirmed receipt of the landlord's evidence. In accordance with sections 88 and 89 of the *Act*, I find that the landlord was duly served with the tenant's application and the tenant was duly served with the landlord's evidence.

The tenant confirmed receipt of the landlord's 2 Month Notice. A copy of the notice was provided for this hearing. Both parties agreed that the effective move-out date on the notice is November 6, 2022. In accordance with section 88 of the *Act*, I find that the tenant was duly served with the landlord's 2 Month Notice.

Both parties agreed that the landlord identified the following reason for seeking an end to this tenancy on page 2 of the notice:

- *The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse).*
- *Please indicate which family member will occupy the unit.*
 - *The child of the landlord or landlord's spouse.*

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. Both parties agreed that this tenancy will end by 1:00 p.m. on February 10, 2023, by which time the tenant and any other occupants will have vacated the rental unit;

2. Both parties agreed that this tenancy is ending pursuant to the landlord's 2 Month Notice, dated September 3, 2022;
3. Both parties agreed that the tenant is entitled to one-month free rent compensation pursuant to the 2 Month Notice and section 51 of the *Act*, according to the following terms:
 - a. Both parties agreed that the tenant is not required to pay any rent to the landlord for the period from January 1 to 31, 2023;
 - b. The tenant agreed to cancel her e-transfer for January 2023 rent of \$1,225.00 by January 6, 2023, and the landlord agreed not to accept the tenant's e-transfer for January 2023 rent;
4. Both parties agreed that the tenant will pay the landlord pro-rated rent of \$437.50 (from the \$1,225.00 total monthly rent / 28 days in February 2023 = \$43.75 x 10 days = \$437.50) by February 1, 2023, for the period from February 1 to 10, 2023;
5. The tenant agreed to bear the cost of the \$100.00 filing fee paid for this application;
6. The tenant agreed that this settlement agreement constitutes a final and binding resolution of her application.

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.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this 21-minute hearing. Both parties had opportunities to think about, ask questions, negotiate, and discuss the settlement terms in detail.

I informed the landlord that I could not provide her with a monetary order for February 2023 prorated rent of \$437.50, because it was not yet due at the time of this hearing on January 6, 2023. I notified her that if any of the above amount was unpaid, she was at liberty to file a future RTB application to obtain a monetary order for same. The landlord affirmed her understanding of same.

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 to be used by the landlord **only** if the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on February 10, 2023. The tenant must be served with 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.

I order that the tenant is not required to pay rent to the landlord for the period from January 1 to 31, 2023.

I order the tenant to pay the landlord pro-rated rent of \$437.50 for the period from February 1 to 10, 2023.

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

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: January 06, 2023

Residential Tenancy Branch