Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with the landlords' application, filed on March 7, 2023, pursuant to the *Residential Tenancy Act* ("*Act*") for:

- an early end to tenancy and an order of possession, pursuant to section 56; and
- authorization to recover the $100.00 filing fee paid for this application, pursuant to section 72.

"Tenant CP" did not attend this hearing. The two landlords, "landlord CC" and "landlord GL," the landlords' two agents, agent CC ("landlords' son") and agent TS ("landlords' agent"), tenant JG ("tenant"), and the tenant's advocate attended this 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 29 minutes from 9:30 a.m. to 9:59 a.m.

At the outset of this hearing, I cautioned the landlords' son, who was calling in using a speakerphone that was connected to the telephone line of the two landlords and their agent, that it could cause echoing and feedback, which might make it difficult for me to hear, so I might miss important information. He affirmed that he understood the above consequences and wanted to remain on speakerphone throughout this hearing.

The landlords' two agents, the tenant, and the tenant's advocate confirmed their names and spelling. The landlords' son and the tenant provided their email addresses for me to send this decision to both parties after this hearing.

The two landlords confirmed that their son and their agent had permission to represent them at this hearing.

The tenant confirmed that his advocate had permission to represent him at this hearing.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure ("Rules")* does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, the landlords' agent affirmed, under oath, that neither she, nor the two landlords, would record this hearing. At the outset of this hearing, the landlords' son, the tenant, and the tenant's advocate all affirmed, under oath, that they would not record this hearing.

At the outset of 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 affirmed 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. At the outset of this hearing, the tenant chose the option of settlement first, after I repeatedly explained the hearing and settlement options to him.

I repeatedly cautioned the tenant that if I granted the landlords' application, I would end the tenant's tenancy, and issue a two (2) day order of possession against the tenant. The tenant repeatedly affirmed that he was not prepared for the above consequences if that was my decision. The tenant repeatedly affirmed that he wanted to settle this application with the landlords, he was planning to move out anyway, and he was prepared to vacate the rental unit in two to three weeks. Only the tenant proposed the move-out date of June 1, 2023, and the landlords agreed to same.

I repeatedly cautioned the landlords and their agents that if I dismissed the landlords' application without leave to reapply, I would not issue an order of possession to the landlords against the tenant, and this tenancy would continue. The two landlords, the landlords' son, and the landlords' agent all repeatedly affirmed that the landlords wanted to settle this application with the tenant.

Preliminary Issue – Service of Documents

This matter was filed as an expedited hearing under Rule 10 of the RTB *Rules*. The landlords filed this application on March 7, 2023, and a notice of hearing was issued to

them by the RTB on April 12, 2023. The landlord was required to serve that notice, the application, and all other required evidence in one package to each tenant.

The tenant affirmed receipt of the landlords' application for dispute resolution and notice of hearing. In accordance with section 89 of the *Act*, I find that the tenant was duly served with the landlords' application and notice of hearing.

Tenant CP did not attend this hearing or confirm receipt of the landlords' application. Neither the landlords, nor their agents, provided testimony regarding service of the landlords' application to the tenant CP. The tenant stated that he did not have permission to represent tenant CP, as an agent at this hearing. He said that tenant CP does not occupy the rental unit, and she is the sister of landlord GL. Accordingly, this settlement and order is made against the tenant only.

The landlords' agent affirmed that she did not serve the tenant with the landlords' 7-page written evidence package, she only uploaded it to the RTB online dispute access site. I informed her that I could not consider the landlords' evidence at the hearing or in my decision because it was not served to the tenant, as required. However, I was not required to consider the landlords' evidence because both parties voluntarily settled this application, and I was not required to make a decision.

The tenant stated that he served the landlords' son with one copy of his written evidence package on April 26, 2023, by way of registered mail. I informed him that his advocate provided the landlords' Canada Post registered mail tracking number for their application mailing on April 13, 2023. After providing him with additional time during this hearing to find service information, the tenant's advocate provided a different Canada Post tracking number for the mail to the landlords' son's residence. The landlords' son stated that was his correct mailing address, but he did not receive the tenant's evidence.

I was not required to consider the landlords' evidence because both parties voluntarily settled this application, and I was not required to make a decision. Therefore, I do not find it necessary to make a decision regarding service of the tenant's evidence to the landlords.

I cautioned the landlords' agent about interrupting me, speaking at the same time as me, and answering my questions, during this hearing.

Preliminary Issue – Inappropriate Behaviour by the Tenant's Advocate during this Hearing

Rule 6.10 of the RTB *Rules* states the following:

> *6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing*
> *Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.*

Throughout this hearing, the tenant's advocate repeatedly interrupted me, argued with me, repeatedly asked me the same questions, and repeated the same arguments.

I repeatedly cautioned the tenant's advocate and asked him to allow me to speak without interruption, so that I could answer his questions and provide information. I warned him that I could mute his telephone line, which he was sharing with the tenant, and remove them both from this hearing, but he continued with his inappropriate behaviour. This hearing lasted longer because of the repeated interruptions, arguments, and inappropriate behaviour of the tenant's advocate.

However, I allowed the tenant and his advocate to attend this full hearing, despite the inappropriate behaviour of the tenant's advocate, in order to allow the tenant to settle this application, as requested by him at the outset of this hearing.

The tenant's advocate repeatedly argued that both parties have a future RTB hearing on June 13, 2023, regarding the tenant's application. He did not provide the file number during this hearing. He and the tenant repeatedly argued that the tenant wanted his costs back from the landlords. He said that the tenant wanted money back for the fridge and stove. He claimed that the landlords should prove that this is an emergency hearing.

I repeatedly cautioned the tenant and his advocate that I was only dealing with the landlords' application at this hearing, not the future RTB hearing for the tenant's application. I repeatedly notified them that the landlords filed an urgent, priority application under the expedited hearing procedure, so I could only deal with the landlord's claims at this hearing. I repeatedly informed hem that I could not deal with

the tenant's monetary claims because they were non-urgent, lower priority issues, that are scheduled for a future RTB hearing on a different date.

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 this 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 June 1, 2023, by which time the tenant and any other occupants will have vacated the rental unit;
2. The landlords agreed to bear the cost of the $100.00 filing fee paid for this application;
3. The landlords agreed that this settlement agreement constitutes a final and binding resolution of their application.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties understood and agreed to the above terms, free of any duress or coercion. Both parties 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 29-minute hearing. Both parties had ample time and opportunity to think about, review, discuss, negotiate, and decide about the above settlement terms.

I informed both parties that the order of possession issued with this settlement, is enforceable in the Supreme Court of British Columbia, and the landlords can enforce the order and hire a bailiff to remove the tenant and any other occupants and belongings from the rental unit. Both parties affirmed their 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(s) **only** if the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on June 1, 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.

The landlord 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: May 01, 2023

Residential Tenancy Branch