



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on March 16, 2015, by the Tenants to cancel a Notice to end tenancy for Cause and to recover the cost of the filing fee from the Landlord for this application.

The hearing was conducted via teleconference and was attended by the Landlord. No one was in attendance for the Tenants despite this hearing being convened to hear matters pertaining to the Tenants' application.

Issue(s) to be Decided

Should the Tenants' application be dismissed with or without leave to reapply?

Background and Evidence

No additional evidence was provided in support of the Tenants' application as no one appeared at the teleconference hearing on behalf of the Tenant.

The Landlord testified that the rental unit was a basement suite and not the entire or address as listed on the Tenants' application. She submitted that the Tenants have been served a 1 Month Notice on March 14, 2015 and a 10 Day Notice on April 9, 2015. The Tenants are still residing in the rental unit and the Landlord stated that she attended the hearing in order to get an Order of Possession to get the Tenants to move out.

Analysis

Given the evidence before me, in the absence of any evidence from the Tenants who did not appear despite this hearing being scheduled to hear the Tenant's application, I accept the undisputed evidence pertaining to the description of the rental unit as being a basement suite located at the address listed on the application. Accordingly, the style of cause was amended to include the description "basement suite", in accordance with section 64 (3)(c) of the *Act*.

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing.

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of the applicant Tenants, the telephone line remained open while the phone system was monitored for sixteen minutes and no one on behalf of the applicant Tenants called into the hearing during this time. Accordingly, in the absence of any submissions from the applicant Tenants, I order the application dismissed without liberty to reapply.

Section 55 of the Act provides that an Order of Possession **must** be provided to a Landlord if a Tenant's request to dispute a Notice to End Tenancy is dismissed and the Landlord makes an oral request for an Order of Possession during the scheduled hearing. Accordingly I award the Landlord an Order of Possession.

Conclusion

I HEREBY DISMISS the Tenants' application, without leave to reapply.

The Landlord has been granted an Order of Possession effective **Two (2) Days after service upon the Tenant**. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced 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 *Residential Tenancy Act*.

Dated: April 21, 2015

Residential Tenancy Branch

