



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

Pursuant to the *Residential Tenancy Act* ("the *Act*"), this hearing was scheduled as a result of an application from the tenant pursuant to section 49 of the *Act* to cancel the landlord's 2 Month Notice to End a Tenancy for Landlord's Use ("2 Month Notice").

The tenant/applicant did not attend although the 11:00 am teleconference continued until 11:11 am. The landlord/respondents attended this hearing and were given a full opportunity to be heard, to present evidence and to make submissions with respect to the issuance of their 2 Month Notice.

The landlords testified that a 2 Month Notice to End Tenancy was personally served to the tenant on January 14, 2018 however the landlords did not make an application with respect to that 2 Month Notice. Landlord JI gave sworn testimony that he served the tenant with the 2 Month Notice to End Tenancy dated January 14, 2018 with an effective date of March 14, 2018. I accept the undisputed evidence of both landlords at this hearing and find that the tenant was duly served with the 2 Month Notice to End Tenancy as of January 14, 2018. At this hearing, the landlords requested an order of possession.

With respect to the tenant's failure to attend this hearing, Rule 7 of the Residential Tenancy Branch Rules of Procedure provides as follows:

7.1 ... The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.3 ...If a party or their agent fails to attend the hearing, the may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

In the absence of the tenant's participation in this hearing to support his application and given the evidence provided by the landlords at this hearing, **I order the tenant's application dismissed without liberty to reapply.**

Issue(s) to be Decided

As the tenant failed to attend, his application is dismissed. Pursuant to section 55, is the landlord entitled to an Order of Possession?

Background and Evidence

Landlord JI testified that the rental agreement for the premises began in 2006. The monthly rental amount of \$400.00 is payable on the first of each month for the rental of the basement suite in the landlords' family home. The landlord testified that the tenant continues to reside in the rental unit. The landlord confirmed that the landlord continues to hold the \$200.00 security deposit that the tenant paid at the outset of this tenancy.

At this hearing, the landlord requested an Order of Possession for Cause, relying on the 2 Month Notice issued to the tenant with a corrected effective date of March 31, 2018. The landlord testified that his adult son will move into the basement suite unit and the tenant's current unit will no longer be rented out. The landlord testified that, prior to issuing a formal Notice to End Tenancy, the landlord advised the tenant personally that their son would be moving in to the rental unit.

Analysis

The tenant's application to dispute the 2 Month Notice to End Tenancy included a copy of the notice to end tenancy. That notice was filled out properly and, with a corrected effective date, I find that the landlords have shown on a balance of probabilities that he intends to move his son into the rental unit and no longer rent out the rental unit for profit.

Section 55(1) of the *Act* reads as follows:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director **must grant to the landlord an order of possession of the rental unit** if

(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The tenant made an application to dispute the landlord's notice to end tenancy. The tenant did not attend to support his application. The landlords provided sufficient information to support the 2 Month Notice properly issued to the tenant. As I have dismissed the tenant's application, **I find the landlord is, pursuant to section 55(1), entitled to an Order of Possession.**

Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: March 26, 2018

Residential Tenancy Branch