



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GAVIOTA HOLDINGS LTD. DBA COUNTRY SQUIRE
APARTMENTS and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (“the Act”) for:

- an order cancelling the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (“10 Day Notice”) pursuant to section 46 *Act*.

Only the respondent landlord, R.M. (the “landlord”) attended the hearing by way of conference call. Following opening remarks, the landlord explained the tenant had passed away during the tenancy and the keys to the rental unit had been returned to him by the tenant’s family on January 31, 2019.

The landlord said he was no longer seeking to enforce the 10 Day Notice.

Analysis

While the landlord attended the hearing by way of conference call, the applicant tenant did not, although I waited until 9:40 A.M. in order to enable the applicant tenant to connect with this teleconference hearing scheduled for 9:30 A.M. The landlord who attended the hearing was given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 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.

The landlord said he was longer seeking enforcement of the 10 Day Notice because the rental unit had been surrendered to him on January 31, 2019. The landlord explained an Order of Possession which would typically be issued pursuant to section 52 of the *Act* was unnecessary because he now had possession of the rental unit.

Conclusion

The tenant's application to dispute the landlord's 10 Day Notice is dismissed without 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: February 4, 2019

Residential Tenancy Branch