



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M FFT

Introduction and Analysis

This hearing dealt with the tenant's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act"), seeking to cancel a 4 Month Notice to End Tenancy for Demolition, Renovation, or Conversion of Rental Unit dated August 24, 2019 ("4 Month Notice") and to recover the cost of the filing fee.

The hearing was by telephone conference call and began promptly at 11:00 a.m. Pacific Time on this date, October 28, 2019, as indicated on the Notice of a Dispute Resolution Proceeding document ("Notice of Hearing"). The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during was the respondent landlord, BM ("landlord"). Words utilizing the singular shall also include the plural and vice versa where the context requires.

Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules") Rules 7.1 and 7.3 apply and state:

Rule 7 – During the hearing

7.1 Commencement of the dispute resolution hearing

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

7.3 Consequences of not attending the hearing

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

[Emphasis added]

After the 10-minute waiting period, as the applicant tenant did not attend the hearing by 11:10 a.m., the application of the tenant was **dismissed without leave to reapply** as the landlord respondent attended the hearing and was prepared to proceed. I do not find it necessary to consider the merits of the tenant's application as the tenant failed to attend the hearing and the respondent landlord did attend and was ready to proceed.

The landlord confirmed that the tenant continues to occupy the rental unit and that the landlord is seeking an order of possession effective January 1, 2020, which is the effective vacancy date listed on the 4 Month Notice. Section 55 of the *Act* applies and states:

Order of possession for the landlord

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.

[Emphasis added]

I have reviewed the 4 Month Notice and find that it complies with section 52 of the *Act*. Therefore, I grant the landlord an order of possession effective **January 1, 2020 at 5:00 p.m.**

As the tenant's application was dismissed, I do not grant the filing fee.

Conclusion

The tenant's application is dismissed without leave to reapply.

The tenancy will end on January 1, 2020 at 5:00 p.m.

The filing fee is not granted.

The landlord has been granted an order of possession effective January 1, 2020 at 5:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

As the landlord confirmed their email address during the hearing, and the tenant provided their email address on the application, this decision will be emailed to both parties.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: October 28, 2019

Residential Tenancy Branch