



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking:

- Cancellation of a One Month Notice to End Tenancy for Cause (the “One Month Notice”); and
- An order for the Landlord to comply with the *Act*, regulations or tenancy agreement.

I note that section 55 of the *Act* requires that when a tenant submits an Application seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with section 52 of the *Act*.

The hearing was convened by telephone conference call and was attended by the Agent for the Landlord (the “Agent”), who provided affirmed testimony. The Tenant did not attend. The Agent attended the hearing at the scheduled time, ready to proceed, and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. Although the line remained open for 20 minutes, neither the Tenant nor an agent acting on their behalf appeared.

Preliminary Matters

I identified that the unit number for the dispute address was different on the Application than in the One Month Notice. The Agent stated that the unit number listed on the One Month Notice is correct, and that the Tenant must have accidentally listed the wrong unit number in their Application as the one listed on the Application belongs to one of their family members.

I amended the unit number for the dispute address to match that of the One Month Notice. I also amended the Application to name only the Tenant listed on the One

Month Notice, as the other Applicant listed is identified in the Application as the Tenant's agent and not a Tenant.

Analysis

Rule 7.1 of the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. As the Agent and I attended the hearing on time and ready to proceed and there was no evidence before me that the parties had agreed to reschedule or adjourn the matter, I commenced the hearing as scheduled at 9:30 A.M. on March 30, 2020. Rule 7.3 of the Rules of Procedure states that 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 reapply. Although the line remained open for 20 minutes, neither the Tenant nor an agent acting on their behalf, appeared to provide any evidence or testimony for my consideration in relation to the Tenant's Application seeking cancellation of the One Month Notice and an Order that the Landlord comply with the *Act*, regulations or tenancy agreement. As a result, and pursuant to rule 7.3 of the Rules of Procedure, I dismiss the Tenant's Application without leave to reapply.

Having made the above finding, I will now turn my mind to whether the Landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*.

The One Month Notice in the documentary evidence before me is signed and dated by the Landlord, gives the address of the rental unit, states the effective date of the One Month Notice and the reason for ending the tenancy, and is in the approved form. As a result, I find that it complies with section 52 of the *Act* and the Landlord is therefore entitled to an Order of Possession pursuant to section 55 of the *Act*.

As the effective date of the One Month Notice has passed, the Order of Possession will therefore be effective two days after service on the Tenant.

Conclusion

The Tenants' Application is dismissed in its entirety without leave to reapply.

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the Landlord effective **two days after service of this Order on the Tenant**. The Landlord is provided with this Order in the above terms and the Tenant must be served with this

Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia 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: March 30, 2020

Residential Tenancy Branch