



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FFT

Introduction

This hearing convened as a result of a Tenants' Application for Dispute Resolution, filed on July 15, 2020, wherein the Tenants sought to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities as well as recovery of the filing fee.

The hearing of the Tenants' Application was scheduled for teleconference at 11:00 a.m. on August 21, 2020. The line remained open while the phone system was monitored for sixteen minutes and the only participant who called into the hearing during this time was the Landlord and his friend, L.E.

The Tenants did not attend this hearing, although I left the teleconference hearing connection open until 11:16 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord, his friend, and I were the only ones who had called into this teleconference.

The Landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Analysis and Conclusion

Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* provide as follows:

Commencement of Hearing:

The hearing must commence at the scheduled time unless otherwise decided by the arbitrator.

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.

As the Applicant Tenants did not attend the hearing, and the Respondent Landlord appeared and was ready to proceed, I dismiss the Tenants' claim without leave to reapply. This includes dismissing their request that I cancel the Notice.

Although the Tenants indicated they wished to cancel a 10 Day Notice pursuant to section 46 of the *Act*, the evidence filed by the Tenants included a 1 Month Notice to End Tenancy for Cause issued on July 9, 2020. The Landlord confirmed he issued the 1 Month Notice. I find it likely the Tenants erroneously checked off the box on the Application indicating they sought to dispute a notice pursuant to section 46 rather than 47.

In any event, the Landlord indicated that the Tenants had vacated the rental unit. He stated that approximately one hour before the hearing before me, the Tenant, C.C., sent him a text message informing the Landlord that they had vacated the unit. The Landlord's friend then attended the rental unit and confirmed that aside from some personal possessions the Tenants had in fact vacated the unit.

Section 55 of the *Residential Tenancy Act* provides in part as follows:

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.

I have reviewed the 1 month Notice and confirm it complies with section 52 of the *Act*. Consequently, and as I have dismissed the Tenants' claims, the Landlord is entitled to an Order of Possession effective two days after service. This Order may be served on the Tenants by posting to the rental unit door.

The Landlord is reminded that he must comply with the *Regulation* in terms of dealing with the items left in the rental unit by the Tenants; to this end I direct him to Part 5:

https://www.bclaws.ca/civix/document/id/complete/statreg/10_477_2003#part5

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: August 21, 2020

Residential Tenancy Branch