



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR, MNDC, ERP, RP, PSF, RR

Introduction

This hearing was scheduled for 3:00 p.m. on this date to hear the tenant's application to cancel a Notice to End Tenancy for Unpaid Rent; for a Monetary Order for damage or loss under the Act, regulations or tenancy agreement; for repair and emergency repair Orders; for Orders for the landlord to provide services or facilities required by law; and for authorization to reduce rent.

The landlord appeared at the hearing; however, the tenant did not appear despite leaving the teleconference call open until 3:25 p.m.

I noted that on October 7, 2011 the tenant submitted a "Subpoena to a Witness" to the Residential Tenancy Branch. The subpoena is dated June 2, 2011 and requires the tenant to attend court at 9:30 a.m. on today's date. The tenant did not provide any other written communication to the Residential Tenancy Branch with respect to requesting an adjournment or rescheduling of this proceeding.

The landlord was aware of the subpoena but did not consent to adjournment or rescheduling as the tenant has been aware of this hearing for nearly a month. The landlord pointed out that this hearing and the tenant's subpoena to court being on the same day is not an unforeseen circumstance. The landlord asked to proceed with the hearing and requested that I provide her with an Order of Possession.

The Rules of Procedure require that a party to a dispute appear at the scheduled hearing, or be represented by an agent, even if it is to request an adjournment. Alternatively, a party to a dispute may seek to have the hearing rescheduled with the written consent of the other party or by making a written request to the Residential Tenancy Branch three days before the hearing. In the absence of anybody appearing on behalf of the tenant and in the absence of a written request for rescheduling I found insufficient grounds to reschedule or adjourn this hearing. Therefore, in the absence of the tenant, I dismissed the tenant's application without leave to reapply and considered the landlord's request for an Order of Possession.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent on September 6, 2011. The tenant filed to dispute the Notice within the time limit required under the Act.

Analysis

Pursuant to section 55 of the Act, where a tenant files to dispute a Notice to End Tenancy and the tenant's application is dismissed, the Director must grant the landlord an Order of Possession upon an oral request for an order at the time of the scheduled hearing.

Since the tenant's application to cancel a Notice to End Tenancy has been dismissed, upon receiving an oral request for an Order of Possession from the landlord at the scheduled hearing, I provide the landlord with an Order of Possession effective two days after service upon the tenant. The Order of Possession may be enforced in The Supreme Court of British Columbia as an Order of that court.

Conclusion

The tenant's application has been dismissed and the landlord has been provided an Order of Possession effective two days after service upon the tenant.

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: October 11, 2011.

Residential Tenancy Branch