



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

I was designated to hear this matter under section 58 of the *Residential Tenancy Act* (the *Act*). This hearing dealt with the tenants' application for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (1 Month Notice) pursuant to section 47.

The Respondent (the landlord) appeared at the date and 11:00 a.m. time set for the hearing of this matter. The Applicants did not, although I waited until 11:13 a.m. to enable them to connect with this teleconference hearing.

The landlord testified that she posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door at 5:30 p.m. on January 2, 2012, and not a 1 Month Notice. She entered into written evidence a copy of the 10 Day Notice and a copy of a witnessed statement attesting to the posting of the 10 Day Notice on the tenants door at that time and date. The landlord identified January 12, 2012 as the effective date to end the tenancy in that Notice. In accordance with the *Act*, I have corrected this date to January 15, 2012, the correct date by which this tenancy was to have ended. At the hearing, the landlord requested an Order of Possession if the tenants' application for cancellation of the Notice to End Tenancy were dismissed.

Background

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 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.

Section 55(1) of the *Act* reads as follows:

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 an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

The landlord testified that the tenants have not paid any portion of the \$1,350.00 in rent identified as owing in the 10 Day Notice. The landlord said that the tenants had told her that they were planning to vacate by the date of the hearing, but this had not yet occurred.

Analysis

In the absence of any evidence or submissions from the applicants, I order the application dismissed without liberty to reapply.

Based on my decision to dismiss the tenants' application for dispute resolution, I find that this tenancy ended on January 15, 2012. The landlord is provided with a formal copy of a 2 Day Order of Possession.

Conclusion

I dismiss the tenants' application for dispute resolution without leave to reapply. I issue a 2 Day Order of Possession in the landlord's favour. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: January 27, 2012

Residential Tenancy Branch