



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction and Analysis

This telephone conference call hearing was convened as the result of the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the "Notice").

The hearing began at 10:30 a.m. as scheduled and the telephone system remained open and was monitored for 13 minutes. During this time, the applicant/tenant did not dial into the telephone conference call hearing; however the representatives of the landlord appeared and were ready to proceed.

I questioned the landlord about the service of the Notice. The landlord stated that the Notice, dated July 31, 2012, for an effective end of tenancy date of August 31, 2012, was posted on the tenant's door on July 31, 2012.

Section 90 of the Act states that documents served in this manner are deemed delivered three days later, or in this case, the effective service date was August 3, 2012.

Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to September 30, 2012.

Conclusion

In the absence of the tenant/applicant, pursuant to section 10.1 of the Residential Tenancy Branch Rules of Procedure, I dismiss his claim without leave to reapply.

The landlord orally requested an order of possession in the hearing. Section 55 of the Act states that when a tenant applies to cancel a notice to end tenancy and the application is dismissed, if the landlord orally requests an order of possession in the hearing then the order of possession must be granted. Accordingly, I grant the landlord an order of possession effective at 1:00 p.m. on September 30, 2012, the earliest date the Notice could be effective.

This final, legally binding order of possession is enclosed with the landlord's Decision.

Should the tenant fail to vacate the rental unit pursuant to the terms of the order, this order may be filed in the Supreme Court of British Columbia for enforcement 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: September 13, 2012.

Residential Tenancy Branch