



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

CNC, MNDC, FF

Introduction

This Application for Dispute Resolution was originally submitted by the tenant on April 15, 2013 seeking to cancel a One-Month Notice to End Tenancy for Cause dated April 9, 2013 and purporting to be effective May 9, 2013 and a claim for monetary compensation in the amount of \$5,000.00.

Preliminary Matter

The tenant submitted two subsequent amendment to the application on May 2, 2013 attempting to change the amount of the monetary claim to increase it to \$10,00.00 and then further increase the claim to \$25,000.00.

However, the amendments to the application were not received on the correct form. The tenant had submitted the amended claims on a “**Landlord’s Application for Dispute Resolution**” form, instead of the “**Tenant’s Application for Dispute Resolution**” form. (my emphasis)

Because the form utilized for the amendments to the tenant’s original claim were submitted on an incorrect form, devised for a landlord’s claim, I find that the tenant’s amendments to his claim will not be accepted. Therefore, this hearing will only deal with the tenant’s original application seeking to cancel the One-Month Notice to End Tenancy for Cause and claiming monetary compensation totalling \$5,000.00.

Background and Analysis

This application was set to be heard by conference call at 1:00 p.m. The notice of hearing issued by the Residential Tenancy Branch, required each participant to join in the conference call at the time scheduled, by making a phone call to the number provided and entering the participant code identified.

Only the respondent landlord called in to the conference call. The line was held open for 10 minutes, but the applicant failed to appear and the hearing ended at 1:10 p.m. without any testimony being given.

Based on the above, the tenant's application was dismissed without leave to reapply.

At the hearing, the landlord made a request for an order of possession. Under the provisions of section 55(1)(a), upon the request of a landlord, I must issue an order of possession when I have upheld a Notice to End Tenancy.

Although the effective date on the One-Month Notice to End Tenancy for Cause dated April 9, 2013 is stated to be "May 9, 2013", section 53(1) of the Act states that, if a notice to end a tenancy is effective on a date that does not comply with the Act, the notice is deemed to be changed in accordance with subsection (2) or (3), as applicable.

In the case of a One Month Notice to End Tenancy for Cause, the effective date of the notice must be, the day before the day that rent is payable under the tenancy agreement, which in this case would be May 30, 2013

Accordingly, I hereby issue an Order of Possession in favour of the landlord effective May 30, 2013. This order must be served on the tenant and may be enforced through an order from the B.C. Supreme Court if necessary.

Conclusion

The applicant tenant is not successful in the application and it is dismissed without leave to reapply because the applicant did not appear. An Order of Possession is granted to the landlord at the landlord's request.

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: May 14, 2013

Residential Tenancy Branch