



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC OLC FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on October 1, 2013, by the Tenants to cancel a Notice to end tenancy issued for cause, to order the Landlord to comply with the Act, regulation, or tenancy agreement and to recover the cost of the filing fee from the Landlord for this application.

The Landlord was represented by his Agent and Witness; however, no one attended the scheduled teleconference hearing on behalf of the applicant Tenants.

Issue(s) to be Decided

- 1) Should the Tenants' application be dismissed?
- 2) Did the Landlord appear and request an Order of Possession?

Background and Evidence

The Landlord's Agent affirmed they attended today's hearing to have the 1 Month Notice upheld. She affirmed that she was present when her father personally served V.B. with the 1 Month Notice on September 23, 2013.

In the absence of the Tenants, I dismissed their application. The Agent confirmed their desire to have the Notice upheld so they could evict the Tenants. A discussion followed where she requested an Order of Possession so she could proceed in having the Tenants and their possessions removed from the rental unit.

Analysis

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for an oral teleconference hearing.

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.

In the absence of the applicant Tenants, the telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of the applicant Tenants called into the hearing during this time. Based on the aforementioned I find that the Tenants failed to present the merits of their application and the application is dismissed.

Section 55 of the Act provides that an Order of Possession **must** be provided to a landlord if a tenant's request to dispute a Notice to End Tenancy is dismissed and the landlord makes an oral request for an Order of Possession during the scheduled hearing. Accordingly I award the Landlord an Order of Possession.

Conclusion

I HEREBY DISMISS the Tenants' application, without leave to reapply.

I HEREBY FIND the Landlord is entitled to an Order of Possession effective **Two (2) Days upon service**. This Order is legally binding and must be served upon the Tenants. In the event that the Tenants do not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced 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: November 08, 2013

Residential Tenancy Branch

