



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Dispute Codes:

CNC, CNR, MNDC, OPC, FF

Introduction

This was a cross-application hearing.

The landlord attended the hearing at the scheduled time; 10:30 a.m. The tenant did not attend and at 10:41 a.m. the hearing ended and the tenant's application was dismissed.

The tenant had applied to cancel a 10 day Notice to end tenancy; to cancel a 1 month notice to end tenancy; compensation for damage or loss under the Act in the sum of \$1,000.00 and to recover the filing fee cost.

The landlord provided affirmed testimony that on February 12, 2014, at approximately 4 p.m., she personally served the tenant copies of the Application for Dispute Resolution and Notice of Hearing and evidence. The landlord had a neighbour, Jim, present as a witness to service.

These documents are deemed to have been served to the tenant, in accordance with section 89 and 90 of the Act, however; the tenant did not appear at the hearing.

The landlord confirmed receipt of the tenant's Application for Dispute Resolution.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession based on a 1 month Notice to end tenancy for cause that was issued on February 1, 2014?

Is the landlord entitled to filing fee costs?

Background and Evidence

The rent is due on the 1st day of each month. On February 1, 2014 the landlord served the tenant a 1 month Notice to end tenancy for cause. The Notice was personally served to the tenant by the landlord, at the landlord's unit in the home. The tenant came to the landlord's door and was handed the Notice, in the presence of the landlord's friend, S.G.

The tenant applied on February 7, 2014, to cancel the Notice.

The Notice had an effective date of March 1, 2014.

The landlord submitted a copy of the Notice ending tenancy.

Analysis

Section 55(1) of the Act provides:

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

As the tenant failed to attend the hearing in support of her own application to cancel the Notice, the tenant's application has been dismissed.

As the landlord has requested an Order of possession, I find, pursuant to section 55 of the Act, that the landlord is entitled to an Order of possession.

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 March 31, 2014. The Notice was given to the tenant on the date rent was due; therefore, an effective date of March 1, 2014 fails to comply with the Act.

The landlord has been granted an Order of possession that is effective at **1 p.m. on March 31, 2014**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

As the landlord's application has merit I find the landlord is entitled to the \$50.00 filing fee cost.

Based on these determinations I grant the landlord a monetary Order in the sum of \$50.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The tenant's application is dismissed.

The landlord is entitled to an Order of possession and filing fee costs.

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: February 25, 2014

Residential Tenancy Branch

