



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Tenant on September 8, 2014, to cancel a Notice to end tenancy issued for unpaid rent.

The hearing was conducted via teleconference and was attended by the Landlord who provided affirmed testimony. No one appeared on behalf of the Tenant despite this hearing being convened to hear matters pertaining to the Tenant's application for dispute resolution.

Issue(s) to be Decided

1. Should the Tenant's application be dismissed with or without leave to reapply?
2. Did the Landlord appear at the hearing and make an oral request for an Order of Possession?

Background and Evidence

The Landlord testified and confirmed that he had served the Tenant a 10 Day Notice to end tenancy for unpaid rent. He submitted that approximately five days ago he had entered into an agreement with the Tenant where the Tenant agreed to pay the Landlord money that was owed on October 28, 2014 and the Tenant would move out of the unit. The Landlord stated that the Tenant did not pay him the money and the Tenant has not moved out of the rental unit.

In closing, the Landlord asked if he would be issued a document that would allow him to get the Tenant to move out. He also questioned if he would be awarded the money that was owed to him.

No additional evidence was provided in support of the Tenant's application as no one appeared at the teleconference hearing on behalf of the Tenant.

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.

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 Tenant, the telephone line remained open while the phone system was monitored for 12 minutes and no one on behalf of the applicant Tenant called into the hearing during this time. Accordingly, in the absence of any submissions from the applicant Tenant, I order the application dismissed without liberty to reapply.

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.

During the hearing the Landlord asked if he would be issued a document that would allow him to get the Tenant to move out, which I have interpreted to be the Landlord's oral request for an Order of Possession. Therefore, I grant the Landlords' request for an Order of Possession, pursuant to section 55 of the Act.

I cannot consider the Landlord's request for a monetary order as the matter before me was convened to hear the Tenant's application. The Landlord is at liberty to file his own application if he wishes to pursue a claim for any damage or loss he may have suffered as the result of this tenancy.

Conclusion

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

The Landlord has been granted an Order of Possession effective **Two (2) Days after service upon the Tenant**. In the event that the Tenant does 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: October 29, 2014

Residential Tenancy Branch

