



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC OLC

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Tenant on February 18, 2015, to cancel a 1 Month Notice to end tenancy issued for cause and to Order the Landlord to comply with the Act, regulation, or tenancy agreement.

The hearing was conducted via teleconference and was attended by the Landlord and two assistants as listed on the front page of this decision. No one was in attendance for the Tenant despite this hearing being convened to hear matters pertaining to the Tenant's application.

Issue(s) to be Decided

Should the Tenant's application be dismissed with or without leave to reapply?

Background and Evidence

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.

The Landlord submitted evidence that the Tenant entered into a fixed term tenancy that began on May 15, 2011 and switched to a month to month tenancy after six months. Rent of \$400.00 is due on or before the first of each month and on or before May 15, 2011 the Tenant paid \$175.00 as the security deposit.

The rental unit was described as being a single room occupancy which is a bedroom located in the main level of a single detached home, along with two other bedrooms which are rented to other tenants under separate agreements. The Tenant shares the common areas on the main level with the other occupants that include a living room, kitchen, and bathroom. The Landlord resides in the upper level of the house.

The 1 Month Notice was issued on February 13, 2015, listing an effective date of March 31, 2015, as per the copy provided in evidence by the Tenant.

In closing, the Landlord stated that she appeared at the hearing to request an Order of Possession.

Analysis

Upon review of the Tenant's application for Dispute Resolution I noted that the Tenant spelled his first name differently than what was spelled on the tenancy agreement and on the Notice to end tenancy. Accordingly, I amended the style of cause of this application to include both spellings of the Tenant's first name, in accordance with section 64 (3)(c) of the *Act*.

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 twelve minutes and no one on behalf of the applicant Tenant called into the hearing during this time. Accordingly, in the absence of any further 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. Accordingly I award the Landlord an Order of Possession effective on March 31, 2015, the effective date of the 1 Month Notice.

Conclusion

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

The Landlord has been granted an Order of Possession effective **March 31, 2015 at 1:00 p.m. 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: March 18, 2015

Residential Tenancy Branch

