



Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding HOMELIFE PENINSULA PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Tenant on March 20, 2015 to cancel a Notice to end tenancy issued for cause and to recover the cost of the filing fee from the Landlord for this application.

The hearing was conducted via teleconference and was attended by the Landlord. No one was in attendance 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. In absence of the Tenant, should her application be dismissed?
2. Did the Landlord appear at the hearing and make an oral request for an Order of Possession?

Background and Evidence

The Landlord submitted evidence that the Tenant entered into a written fixed term tenancy that began on December 4, 2014 when the Tenant took occupancy, and is scheduled to end on November 30, 2015. Rent of \$1,100.00 is due on or before the first of each month and on December 3, 2014 the Tenant paid \$550.00 as the security deposit.

A copy of the March 12, 2015 1 Month Notice was submitted into evidence, and was issued pursuant to Section 47(1) of the Act listing an effective date of April 30, 2015 for the following reasons:

- Tenant or a person permitted on the property by the tenant has:
 - Significantly interfered with or unreasonably disturbed another occupant or the landlord
 - Seriously jeopardized the health or safety or lawful right of another occupant or the landlord
 - Put the Landlord's property at significant risk

The Landlord stayed on the line for ten minutes and during that time she requested an Order of Possession be issued.

Analysis

Given the evidence before me, in the absence of any evidence from the Tenant who did not appear despite this hearing being scheduled to hear the Tenant's application, I accept the undisputed evidence submitted by the Landlord.

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 ten minutes and no one on behalf of the applicant Tenant called into the hearing during this time. Therefore, 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. Accordingly I grant the Landlord's request for an Order of Possession.

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: May 01, 2015

