



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CALLAHAN PROPERTY GROUP LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, O (Tenants' Application)
 OPB, MND (Landlord's Application)

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the "Application") made by the Tenants on March 31, 2015 to cancel a notice to end tenancy for cause and for 'Other' reasons. The Landlord applied on April 2, 2015 for an Order of Possession based on a breach of the agreement and for a Monetary Order for damages to the rental unit.

An agent for the owner of the company named on the Application (the "Landlord's agent") appeared for the hearing along with two resident property managers. The participants all provided affirmed testimony. However, neither party had provided any evidence prior to the hearing. There was no appearance for the Tenants during the 18 minute duration of the hearing.

As the Landlord had not provided any written evidence prior to the hearing for their Application, the Landlord's agent withdrew the Landlord's Application and made an oral request for an Order of Possession based on the Tenant's Application to cancel the notice to end tenancy for cause. The Landlord's confirmed receipt of the Tenant's Application and submitted that the Tenant had failed to make the Application within the time limits set by Section 47(4) of the *Residential Tenancy Act* (the "Act").

As the Tenants failed to appear for the hearing and the Landlord's agent appeared and was ready to proceed, I determined that the Tenants failed to present the merits of their Application. Therefore, I dismissed the Tenants' Application **without** leave to re-apply. The Landlord made an oral request for an Order of Possession during the hearing against the Tenant based on the following evidence.

The property managers both testified that they personally served the Tenant a 1 Month Notice to End Tenancy for Cause ("the Notice") on February 11, 2015. The Notice had

an effective vacancy date of March 31, 2015. Since I was satisfied by the evidence of the participants that the Notice had been served to the Tenant, I allowed the Landlord's agent to provide a fax copy of the Notice into written evidence during the hearing, pursuant to Rule 3.19 of the Residential Tenancy Branch Rules of Procedure.

The Landlord's agent testified that the Tenant had not paid rent for April and May 2015 and requested an immediate order of possession. Section 55(1) of the Act states that if a tenant makes an Application to dispute a Notice and the Application is dismissed, the Arbitrator must grant an Order of Possession if the landlord makes an oral request during the hearing.

As the Landlord made an oral request and the effective vacancy date on the Notice has now passed, and the Tenant has not paid rent, I grant the Landlord an Order of Possession pursuant to Section 55(1) of the Act which is effective two days after service on the Tenant.

This order must be served onto the Tenant and if the Tenant fails to vacate the rental suite in accordance with the order, the order may be enforced in the Supreme Court of British Columbia as an order of that court. Copies of the order are attached to the Landlord's copy of this decision.

Conclusion

The Tenant failed to appear for the hearing. Therefore, I dismissed the Tenants' Application in its entirety without leave to re-apply. The Landlord is granted an Order of Possession. The Landlord withdrew their Application and is at liberty to re-apply for a Monetary Order.

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 14, 2015

Residential Tenancy Branch

