



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SELKIRK HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("the Act") for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 47.

The tenants did not attend this hearing, although I waited until 9:45 am in order to enable the tenants to connect with this teleconference hearing scheduled for 9:30 am. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions. The landlord made an oral application for an Order of Possession at this hearing.

Background, Evidence & Analysis

The landlord attended this hearing in response to the tenants' application. The tenants sought to cancel the 1 Month Notice to End Tenancy. The landlord provided evidence that, at a previous Residential Tenancy Branch Dispute Resolution hearing, the landlord was granted an Order of Possession with respect to a 10 Day Notice to End Tenancy issued to the tenants. The landlord provided evidence that he had applied for a Writ of Possession however, he did not act on that Writ of Possession immediately at the request of the tenants. The landlord testified that he issued a 1 Month Notice to the tenants on April 23, 2015. The 1 Month Notice was issued on the grounds that;

Tenant is repeatedly late paying rent.

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 testified that he has received multiple complaints from other occupants in the rental unit based on noise and disruption from the tenants' rental unit including; arguing; breaking glass and other items; throwing objects of their balcony; and strangers attending the building. The landlord provided a letter signed by six residents of the building where the tenants reside referring to these ongoing issues and noting that the police have been called to the tenants' unit on a number of occasions.

Rule 10.1 of the Rules of Procedure provides as follows:

The dispute resolution proceeding must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the dispute resolution proceeding 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's participation in this hearing, and given the sworn evidence provided by the landlord, I order the application dismissed without liberty to reapply.

Section 55(1) of the Act reads as follows:

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.

At this hearing, the landlord made an oral request for an Order of Possession. I have dismissed the tenants' application without leave to reapply. The landlord has provided evidence to support his application for an Order of Possession. I find the landlord is entitled to an Order of Possession.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: June 22, 2015

Residential Tenancy Branch

