



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KELOWNA RESERVATION CENTER
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FF

Introduction

This matter was set for hearing at 09.00 a.m. on this date to hear the tenant's application to have a One Month Notice to End Tenancy for cause set aside and to recover the filing fee from the landlord for the cost of this proceeding. Since the applicant did not appear at the hearing by 09.15 a.m., but the respondent did appear and was ready to proceed, I dismissed the tenant's application without leave to reapply pursuant to rule 10.1 of the Residential Tenancy Branch *Rules of Procedure*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord's agent testified that the City Bylaw services have placed a No Occupancy Order on the door. Evidence of this Order has been provided by the landlord. This Order prevents the use of the rental unit due to a marijuana grow operation and or amphetamine production operation. The landlord must now have the unit cleaned by a qualified professional and until the certification and cleaning have been completed the Bylaw prohibits occupation by any person.

The landlord's agent testified that although the tenant is currently not residing in the unit the tenant still has possession of the unit as his belongings remain in the unit.

Analysis

The tenant has failed to appear for a scheduled Dispute Resolution hearing and as a result the tenant's application has been dismissed in its entirety.

Section 55(1) of the *Act* provides that if a tenant's application to dispute a Notice to End Tenancy Due is dismissed, and the landlord makes an oral request for an Order of Possession at the hearing, then the director must issue an Order of Possession of the rental unit to the landlord.

The landlord's agent made an oral request for an Order of Possession for the rental unit at the hearing to be effective as soon as possible. The effective date of the One Month Notice was August 31, 2015 as this date has since passed I grant the landlord's agent's oral request and issue an Order of Possession.

Conclusion

The tenant's application is dismissed without leave to re-apply.

The landlord has been issued an Order of Possession effective **two days** after service upon the tenant pursuant to section 55(1) of the *Act*. This Order must be served on the tenant. If the tenant does not relinquish possession of the rental unit to the landlord then the Order may be filed in the 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 19, 2015

Residential Tenancy Branch

