



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

FINAL DECISION

Dispute Codes:

CNC, FF

Introduction

The tenant applied to cancel a one month Notice to end tenancy for cause that was issued on February 12, 2016 and to recover the filing fee cost from the landlord.

Both parties were present at the initial hearing held on April 11, 2016. On April 11, 2016 an interim decision was issued.

Preliminary Matters

During the hearing held on April 11, 2016 the parties were informed that the reconvened hearing would be scheduled as soon as possible. The parties were told that they would receive a telephone call from a Residential Tenancy Branch staff member, who would provide the details of this reconvened hearing date and time and that a Notice of hearing would be mailed.

The interim decision issued on April 11, 2016 included:

The parties each confirmed their telephone numbers and are aware that they will be contacted by the end of the week by a RTB staff member who will provide the reconvened hearing details

Copies of the Notice of Hearing are enclosed with this interim decision. The hearing will reconvene on April 20, 2016 at 9:00 a.m. The Notice provides the conference call dialing instructions.

On April 14, 2016 a Notice of Dispute Resolution Hearing was issued for each party. The Notice was enclosed with the interim decision mailed to each party. On April 14, 2016 each party was contacted by telephone, to inform them of hearing date, time and dialing instructions.

The landlord attended the reconvened hearing and was reminded she continued to provide affirmed testimony. The landlord confirmed that they had received a telephone call confirming the hearing details and that the interim decision was received, including the Notice of hearing.

Issue(s) to be Decided

Should the one month Notice ending tenancy for cause issued on February 12, 2016 be cancelled or must the landlord be issued an Order of possession?

Background and Evidence

This tenancy commenced on September 1, 2011. Rent is \$1,236.00 due on or before the first day of the month. The tenant resides in a multi-unit strata development.

The tenant has applied to cancel a one month Notice to end tenancy for cause issued on February 12, 2016. The Notice provides the following reasons:

- that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; and
- that the tenant has breached a material term of the tenancy that was not corrected within a reasonable time

On April 11, 2016 the landlord made submissions in support of the reasons given on the Notice ending tenancy.

The hearing reconvened on today's date to allow the tenant to make submissions. The landlord was present. After 11 minutes the tenant had not entered the hearing.

Therefore, as the tenant failed to attend the hearing to provide a response to the landlords' submission, in support of the tenants' application to cancel the Notice ending tenancy, I find that the tenant's application is dismissed.

Section 55(1) of the Act provides:

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*

(Emphasis added)

Therefore, as the tenants' application is dismissed, I find, pursuant to section 55(1) of the Act that the landlord must be issued an Order of possession.

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenant**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Conclusion

The application is dismissed.

The landlord is entitled to an Order of possession.

This final decision should be read in conjunction with the interim decision issued on April 11, 2016.

This decision is final and binding and 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: April 20, 2016

Residential Tenancy Branch