



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT CNL MNDC MNSD O OLC FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the Act") for more time to make an application to cancel the landlord's 2 Month Notice to End Tenancy for Landlord's Use ("2 Month Notice") pursuant to section 66; cancellation of the landlord's 2 Month Notice pursuant to section 49; a monetary order for compensation under the Act; authorization to obtain a return of the security deposit pursuant to section 38; an order requiring the landlord to comply with the Act, pursuant to section 62; and authorization to recover the filing fee pursuant to section 72.

The applicant/tenant did not attend this hearing although the 9.30 am teleconference continued until 9:44 am. The respondent/landlord attended this hearing and was given a full opportunity to present evidence and to make submissions. The landlord testified that a 2 Month Notice was personally served to the tenant on May 30, 2016. The landlord submitted photographs of the tenant accepting the notice. I accept the evidence of the landlord with respect to the service of the Notice. At this hearing, the landlord requested an order of possession pursuant to section 55 of the Act.

With respect to the tenant's failure to attend this hearing, 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 tenant's participation in this hearing to support his application and given the evidence provided at this hearing, **I order the tenant's application dismissed without liberty to reapply.**

Issue(s) to be Decided

As the tenant failed to attend, his application is dismissed in its entirety, including his application to cancel the landlord's 2 Month Notice.

Pursuant to section 55 of the Act, is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord testified, with supporting documentary evidence that this tenancy began on April 1, 2016. The landlord bought the residential premises (a house) from the tenant's parents. The tenant's

parents briefly continued to reside in the upstairs rental unit but have since vacated. The tenant continues to reside in the rental unit under a month to month tenancy agreement with a rental amount of \$500.00.

On May 30, 2016, the landlord issued a 2 Month Notice to End Tenancy for Landlord's Use on the basis that the unit will be occupied by the landlord's close family member. He provided testimony that the unit will be occupied by a family member at this hearing.

Analysis

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 to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The tenant made an application to dispute the landlord's notice to end tenancy. The tenant did not attend to support his/her application and I have therefore dismissed the tenant's application. I find that the landlord's 2 Month Notice to End Tenancy, provided as evidence at this hearing, is properly signed and dated with the address of the rental unit, the reason for ending the tenancy as well as the effective date of the notice in accordance with section 52 of the *Act*. Based on the evidence provided by the landlord, I find that he has justified the grounds he relies on in his Notice to End Tenancy. **I find the landlord is, pursuant to section 55(1), 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: July 15, 2016

Residential Tenancy Branch