



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the *Act*") for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47 and to recover the filing fee for this application from the landlord pursuant to section 72.

The applicant/tenant did not attend although the 9:30 am teleconference continued until 9:45am. The respondent/landlord's representatives attended this hearing and were given a full opportunity to be heard, to present evidence and to make submissions. Landlord MA testified that a 1 Month Notice to End Tenancy for Cause ("1 Month Notice") was served to the tenant on May 26, 2016 by registered mail. The tenant responded to the 1 Month Notice by making this application. I accept that the tenant was sufficiently served with the 1 Month Notice. At this hearing, the landlord sought an order of possession should the tenant's application be unsuccessful.

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

Background and Evidence

Based on the documentary materials submitted for this hearing as well as the testimony of the landlord, this tenancy began as a one year fixed term on September 1, 2015. A copy of the residential tenancy agreement showed that the monthly rental amount of \$2950.00 is payable on the first of each month. The landlord continues to hold a \$1475.00 security deposit paid by the tenant at the outset of the tenancy.

Landlord MA testified that the tenant has been given six bylaw fines through the strata corporation at the residential premises since the outset of this tenancy. The landlord provided documentation to support the issuance of those fines. Landlord MA testified that the tenant paid 3 fines at the landlord's office. Landlord MA testified that, at that time, the tenant was warned verbally that noise related complaints and attendant fines would not be tolerated: that they must stop. Landlord MA testified that since this conversation, the tenant has received 3 further fines for noise bylaw violations.

The landlord submitted records of the tenant's use of her fob key to enter the rental premises as well as the times of the complaints to show that the tenant was home at the time of the complaints. Landlord MA testified that 3 fines of \$200.00 each are outstanding and owed by the tenant for noise complaints as of the date of this hearing. The landlord submitted a copy of a caution notice sent to the tenant on June 11, 2016 to remind her of previous fines and advise her that continued complaints would result in the end of her tenancy. Landlord MA testified that the tenant was given numerous verbal warnings as well as this written warning.

Analysis

Based on all of the testimony and evidence provided, I find the landlord has shown on a balance of probabilities 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.

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.

The tenant made an application to dispute the landlord's notice to end tenancy. The tenant did not attend to support his/her application. The landlord made an oral request for an order of Possession. The landlord provided sufficient evidence to justify the notice to end tenancy. As I have dismissed the tenant's application, **I find the landlord is, pursuant to section 55(1), entitled to an Order of Possession.**

Conclusion

The landlord is provided with a formal copy of an Order of Possession effective July 31, 2016. 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 25, 2016

Residential Tenancy Branch

