



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT CNC OLC FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "*Act*"), seeking to cancel a 1 Month to End Tenancy for Cause (the "1 Month Notice"), for more time to make an application to cancel a notice to end tenancy, for an order directing the landlord to comply with the *Act*, and to recover the cost of the filing fee.

The respondent landlord appeared at the hearing. The hearing was by telephone conference call and was to begin promptly at 9:30 a.m. Pacific Time on this date, Friday, September 2, 2016. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the landlord.

The landlord testified under oath that a 1 Month Notice was served on the tenant by attaching it to her door by the mail slot on June 29, 2016. The landlord testified that the tenant contacted him 20 minutes later about the 1 Month Notice. The tenant disputed the notice on July 13, 2016, which is beyond the 10 day timeline to dispute a 1 Month Notice as per section 47 of the *Act*. As the applicant tenant did not attend the hearing by 9:40 a.m., the ten minute waiting period, **I dismiss** the tenant's application in full, **without leave to reapply**. Section 55 of the *Act* applies and states:
Section 55 of the *Act* applies and states:

Order of possession for the landlord

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.**

[my emphasis added]

Pursuant to section 55 of the *Act*, **I grant** the landlord an order of possession effective **two (2) days** after service upon the tenant as the effective date of July 31, 2016 has already passed and the tenant continues to occupy the rental unit. I find that pursuant to section 68(1) of the *Act* the tenant knew or should have known that the 1 Month Notice was issued June 29, 2016 as she contacted the landlord 20 minutes after the 1 Month Notice was posted to her door by the mail slot.

Conclusion

The tenant's application is dismissed in full, without leave to reapply as the tenant failed to attend the hearing and the respondent landlord did attend and was ready to proceed.

The landlord is granted an order of possession effective two (2) days after service upon the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, except as otherwise provided under the *Act*, 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: September 2, 2016

Residential Tenancy Branch

