



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CITY OF VANCOUVER
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

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 (the 1 Month Notice) pursuant to section 47.

This matter was set for a conference call hearing at 10:30 a.m. on this date. The tenant did not attend. The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The landlords confirmed that they were served with the tenant's application for dispute and that they were aware of the listed issue(s).

I waited until 11 minutes past the start of the scheduled hearing time in order to enable both parties to connect with this teleconference hearing.

Rule 7 of the Rules of Procedure provides that:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.2 Delay in the start of a hearing

In the event of a delay of a start of a conference call hearing, each party must stay available on the line to commence the hearing for 30 minutes after the time scheduled for the start of the hearing.

In the event of a delay of a face-to-face hearing, unless otherwise advised, the parties must remain available to commence the hearing at the hearing location for 30 minutes after the time scheduled for the start of the hearing.

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of any evidence or submissions from the tenant and in the absence of the tenant's participation in this hearing, I order the application dismissed without leave to reapply.

The landlord stated that he wished to obtain an order of possession based upon the 1 Month Notice dated October 17, 2016. The landlord provided undisputed affirmed testimony that on October 17, 2016, the landlord served the tenant with the 1 Month Notice by posting it to the rental unit door. The 1 Month Notice sets out an effective end of tenancy date of November 30, 2016 and that it was being given as:

- the tenant or person permitted on the property by the tenant has:
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;

The landlord stated that the tenant had assaulted a staff member of the facility on October 6, 2016. The landlord has provided copies of the City of Vancouver Incident Report, copies of statements to police from two staff member, residence log book entries, email correspondence between police and staff members and a letter from Coastal Health Housing.

The landlord stated that following charges before the court an order was made on December 1, 2016 prohibiting the tenant from attending within a 2 block radius of the rental premises except on 1 occasion to collect his personal belongings in the company of a police officer.

Analysis

Section 55 (1) (a) and (b) states that if the tenant makes an application for dispute to cancel the landlord's notice to end tenancy and if, at the time of the scheduled hearing the landlord makes an oral request for an order of possession and the tenant's application is dismissed, the director must grant an order of possession to the landlord.

In this case the tenant having failed to attend the scheduled hearing time had the application for dispute dismissed without leave to reapply. The landlord made an oral request for an order of possession. As such, I find that the landlord is entitled to an order of possession.

Conclusion

The landlord is granted an order of possession.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia 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: December 09, 2016

Residential Tenancy Branch