



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FIVE MILES HOLDINGS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT CNC CNR FF

Introduction and Analysis

This hearing dealt with the tenant's Application for Dispute Resolution (the "Application") under the *Residential Tenancy Act* (the "Act") for more time to make an application to cancel a notice to end tenancy, to cancel a 1 Month Notice to End Tenancy for Cause dated September 27, 2016 (the "1 Month Notice"), to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated October 27, 2016 (the "10 Day Notice") and to recover the cost of the filing fee.

An agent for the respondent landlord company (the "agent") attended the teleconference hearing. The hearing was by conference call and began promptly as scheduled at 11:00 a.m. Pacific Time on this date, Thursday, December 15, 2016, as per the Notice of a Dispute Resolution Hearing (the "Notice of Hearing") provided to the tenant dated October 31, 2016. The phone line remained open while the phone system was monitored for 11 minutes and the only participant who called into the hearing during this time was the agent for the landlord who was ready to proceed. The agent affirmed that the tenant continues to occupy the rental unit and that the second tenant on the original tenant application D.S. is not a tenant, and is an unauthorized occupant. As a result, and pursuant to section 64(3) of the *Act*, I have removed D.S. from the Application resulting in tenant A.W. as the only applicant tenant.

The agent testified that the 1 Month Notice was served on September 27, 2016 by hand by the agent and was witnessed by her husband/co-manager, R.I. The agent testified that the tenant did not dispute the 1 Month Notice within the 10 day timeline provided for under the *Act*.

After the ten minute waiting period, the tenant's application was **dismissed in full, without leave to reapply**. 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]

Given the above and taking into account that I find the 1 Month Notice complies with section 52 of the *Act*, pursuant to section 55 of the *Act*, **I grant** the landlord an order of possession effective **two (2) days** after service on the tenant and applies to all occupants as well. I find the tenancy ended on October 31, 2016 and that the tenant has been over-holding the rental unit since that date.

I find it is not necessary to consider any other aspect of the tenant's application as the application has been dismissed in full.

Conclusion

The tenant's application has been dismissed in full, without leave to reapply. The tenancy ended on October 31, 2016.

The landlord has been granted an order of possession effective two (2) days after service on 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: December 15, 2016

Residential Tenancy Branch