



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, CNL, FF

Introduction

This matter was set for hearing at 09.00 a.m. on this date to hear the tenant's application to dispute a Two Month Notice to End Tenancy for landlord's use of the property; to dispute an additional rent increase; and to recover the filing fee from the landlord for the cost of this application.. The hearing went ahead as scheduled the respondent and her agent did appear and were ready to proceed. The line remained open for 17 minutes; however, no one for the tenant dialed into the call.

Rule 7.1 of the Residential Tenancy Branch Rules of Procedure provides as follows: Commencement of Hearing: The Dispute Resolution Hearing will commence at the scheduled time unless otherwise set by the Arbitrator. Rule 7.3 provides for the consequences of not attending the hearing and states: 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 reapply.

Based on the above I find that since the applicant did not appear at the hearing by 9.17 a.m., I dismiss the tenant's application without leave to reapply pursuant to rule 7.3 of the Residential Tenancy Branch *Rules of Procedure*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord's agent testified that the tenant was served a Two Month Notice to End Tenancy (the Notice) on November 25, 2016 by posting the Notice to the door of the rental unit. A copy of this Notice has been provided in documentary evidence and provided the following reason to end the tenancy:

The rental unit will be occupied by the landlord; the landlords spouse or a close family member of the landlord or the landlord's spouse.

The landlord's agent testified that the tenant has not, to the landlord knowledge, vacated the rental unit. The landlord's agent testified that he is the landlords husband and he and the landlord intend to move out of their own home and want to move into the rental; unit as soon as the tenant vacates the unit. They intend to either rent out their current home or try to sell it. The landlord therefore seeks to have the Notice upheld and requested an Order of Possession.

Analysis

The tenant has failed to appear for a scheduled Dispute Resolution hearing and as a result the tenant's application has been dismissed.

S. 55(1) of the Act provides that:

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.

I find the landlord's Notice to End Tenancy does comply with s. 52 of the *Act* and the landlord requested that I uphold the Notice and issue an Order of Possession for the rental unit. The effective date of the Two Month Notice is January 31, 2017; and this date has since passed. As I have dismissed the tenant's application I therefore issue an Order of Possession to the landlord.

Conclusion

The tenant's application is dismissed in its entirety without leave to re-apply.

The landlord has been issued an Order of Possession effective **Two days** after service upon the tenant pursuant to s. 55(1)(b) of the *Act*. This Order must be served on the tenant. If the tenant remains in Possession of the rental unit and does not relinquish that possession to the landlord then 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: February 03, 2017

Residential Tenancy Branch