



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC Housing Management Commission
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, O

Introduction

This hearing was scheduled to convene at 1:30 p.m. this date by way of conference call concerning an application made by the tenant seeking an order that the landlord comply with the *Act*, regulation or tenancy agreement.

A housing support worker attended the hearing as well as an agent and witness for the landlord. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any submissions, and the tenant did not join the call during that time.

Therefore, I dismiss the tenant's application without leave to reapply.

The landlord's agent orally requested an Order of Possession based on a fixed-term tenancy agreement that has expired and required the tenant to move out of the rental unit by February 28, 2017. The *Residential Tenancy Act* (excerpt below) states that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord, so long as the notice given is in the approved form. In this case, the landlord has not served a notice to end the tenancy. The *Act* also states that a landlord may seek an Order of Possession by making an application for dispute resolution if the tenancy is for a fixed term which requires the tenant to move out of the rental unit at the end of that term. I have no application before me from the landlord, and therefore I decline to grant an Order of Possession.

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.

(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

(a) a notice to end the tenancy has been given by the tenant;

(b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;

(c) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the fixed term;

(d) the landlord and tenant have agreed in writing that the tenancy is ended.

(3) The director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order.

(4) In the circumstances described in subsection (2) (b), the director may, without any further dispute resolution process under Part 5 [*Resolving Disputes*],

(a) grant an order of possession, and

(b) if the application is in relation to the non-payment of rent, grant an order requiring payment of that rent.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without leave to reapply.

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: March 22, 2017

Residential Tenancy Branch