



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CMHA KOOTENAYS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC

Introduction

This hearing was set for a telephone conference call at 10:30 a.m. in response to the Tenants' Application for Dispute Resolution (the "Application") made on June 30, 2017. The Tenants applied to cancel a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") dated June 27, 2017.

An agent for the Landlord, who was also the property manager of the rental unit, appeared for the hearing and provided affirmed testimony. However, there was no appearance for the Tenants despite the telephone line being left open for ten minutes to allow opportunity for the Tenants to appear.

The Landlord's agent testified that the Tenants are still occupying the rental unit but have paid rent since being served with the 1 Month Notice. The Landlord's agent confirmed that the rent paid was accepted for use and occupancy only and the 1 Month Notice is still valid and effective as far as the Landlord is concerned.

Preliminary Findings

Rule 7.3 of the Residential Tenancy Branch Rules of Procedure state that 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.

As the Tenants failed to appear for the hearing to dispute the 1 Month Notice, and the Landlord appeared and was ready to proceed, I dismissed the Tenants' Application without leave to reapply.

Section 55(1) of the Act provides that if a tenant makes an Application to dispute a landlord's notice to end a tenancy, the director must grant an order of possession to the landlord if the notice to end tenancy complies with Section 52 of the Act.

I have examined the 1 Month Notice provided by the Tenants into evidence. I find the Landlord used the approved form, and the contents within comply with Section 52 of the Act.

As the Tenants' Application has been dismissed, I must now grant the Landlord an Order of Possession pursuant to Section 55(1) of the Act. In consideration of when the Order of Possession is to take effect, the vacancy date on the 1 Month Notice has now passed and the evidence before me is that the Tenants are still occupying the rental unit. As the Landlord has accepted rent for September 2017 for use and occupancy only, I find the Landlord is entitled to an Order of Possession which is effective on September 30, 2017.

Copies of this order are attached to the Landlord's copy of this Decision. This order may be filed and enforced in the BC Supreme Court as an order of that court if the Tenants fail to vacate the rental unit at the end of September 2017. The Tenants may also be held liable for any enforcement costs incurred by the Landlord to obtain vacant possession of the rental unit.

Conclusion

The Tenants' Application is dismissed **without** leave to re-apply as they failed to appear for the hearing. The Landlord is granted an Order of Possession to end the tenancy for September 30, 2017.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: September 12, 2017

Residential Tenancy Branch