



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC

Introduction

This hearing was set for a telephone conference call at 9:00 a.m. in response to the Tenants' Application for Dispute Resolution (the "Application") made on August 11, 2017. The Tenants applied to cancel a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") dated August 2, 2017.

An agent for the Landlord, who was also the Co-Landlord in this tenancy, appeared for the hearing and provided affirmed testimony. However, there was no appearance for the Tenants despite the telephone line being left open for 18 minutes to allow opportunity for the Tenants to appear. The Landlord's agent testified that the Tenants had not served him with the Application but only the one page call in details for this hearing.

The Landlord's agent testified that only one of the Tenants is still occupying the rental unit without paying rent for September or October 2017 but the Landlord had agreed to allow that Tenant occupancy up until the date of this hearing after which point the parties had agreed to end the tenancy.

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 prove service of the Application to the Landlord pursuant to Section 89(1) of the *Residential Tenancy Act* (the "Act"), 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.

The Tenants submitted in their Application that the 1 Month Notice did not comply with Section 52 of the Act. I have examined the 1 Month Notice provided by the Tenants into evidence and I find the Landlord used the approved form, and the contents within do comply with Section 52 of the Act. The Tenants have failed to establish how the 1 Month Notice does not comply with 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 one of the Tenants is still occupying the rental unit without paying rent. Therefore, the Landlord is entitled to an Order of Possession which is effective two days after service on the Tenant.

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 Tenant fails to vacate the rental unit. The Tenant 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 and present the merits of the Application. The Landlord is granted a two day Order of Possession.

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: October 24, 2017

Residential Tenancy Branch