



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BAYSHORE CANADA VENTURES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL FFT

Introduction

This hearing dealt with applications from both tenants residing within the address shown above. Tenant DS occupies the upstairs unit and Tenant RM occupies the downstairs unit. Both of the tenants applied pursuant to the *Residential Tenancy Act* (“the Act”), their claims joined against the landlord for: cancellation of the landlord’s 2 Month Notice to End Tenancy for Landlord’s Use (“2 Month Notice”) pursuant to section 49; authorization to recover the filing fee for this application from the landlord pursuant to section 72.

While the landlord/respondents attended this hearing, the tenant/applicants did not. This teleconference hearing remained open until 11:16 am. The landlord/respondents attended this hearing and were given a full opportunity to be heard and to make submissions.

Landlord MC testified that a 2 Month Notice to End Tenancy for Landlord’s Use (“2 Month Notice”) was served to both the upstairs tenant and the downstairs tenant on September 9, 2017 in person. The landlords testified that, at that time, they spoke individually with the upstairs and downstairs tenants regarding the notice issued. The landlords testified that the tenants had both requested more time to make arrangements to move out.

The landlords gave sworn testimony regarding the service of both two 2 Month Notices and I accept that the upstairs tenant (DS) and the downstairs tenant (RM) were duly served with the 2 Month Notice. At this hearing, the landlord made an oral request for an order of possession for each unit in the residence (2) should the tenants’ applications be unsuccessful.

With respect to the tenant's failure to attend this hearing, Rule 10.1 of the Rules of Procedure provides as follows:

The dispute resolution proceeding must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the dispute resolution proceeding in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of either tenant's participation in this hearing to support their applications and given the evidence provided at this hearing by the landlords, **I order both tenants' applications dismissed without liberty to reapply.**

Issue to be Decided

As the tenants failed to attend, their applications are dismissed. Pursuant to section 55, is the landlord entitled to an Order of Possession?

Background and Evidence

Landlord MC gave evidence that the rental agreement for the premises began prior to the current ownership of the residential premises approximately 2 years ago. The rental amount for the upstairs unit is currently \$1000.00 and \$500.00 for the downstairs unit. The landlord continues to hold the \$500.00 security deposit of the upstairs tenant and the \$325.00 security deposit of the downstairs tenant. At this hearing, the landlords made an oral application for an Order of Possession for Landlord's Use, indicating their intent to significantly renovate the rental unit. The landlords provided sworn, undisputed testimony that the rental unit is required to be vacant in order to facilitate the renovations.

Analysis

Section 55(1) of the *Act* reads as follows:

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.

The tenants made an application to dispute the landlord's notice to end tenancy. The tenants did not attend to support their application. The landlord attended and submitted evidence in support of their issuance of 2 Notices to End Tenancy, 1 to the upstairs tenant DS and 1 to the downstairs tenant RM. As I have dismissed the tenant's application, **I find the landlord is, pursuant to section 55(1), entitled to an Order of Possession.**

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** against each of the tenants individually. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: December 22, 2017

Residential Tenancy Branch