



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR, MT, OLC, AAT

Introduction

This hearing was held in response to the tenant's application for dispute resolution in which the tenant has applied to cancel a 10 day Notice to end tenancy for unpaid rent and utilities issued on September 12, 2017, more time to apply to cancel the Notice, an order the landlord comply with the Act and an order for access to the rental unit.

The landlord attended the conference call hearing at the scheduled start time of 1:30 p.m.

A copy of a 10 day Notice ending tenancy for unpaid rent or utilities, which had an effective date of September 22, 2017 was supplied as evidence.

The landlord submitted a copy of an undated mutual agreement to end tenancy signed by the landlord and male tenant, agreeing the tenancy will end at midnight on December 12, 2017.

Section 46(4) of the Act stipulates that a tenant has five days from the date of receiving the Notice ending tenancy to either pay the outstanding rent or to file an application for dispute resolution to dispute the Notice. The tenant disputed the Notice but failed to attend the hearing in support of the application. The landlord said rent continues to be outstanding.

Section 55(1) of the Act provides:

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 hearing was ended at 1:45 p.m.

Residential Tenancy Branch Rules of Procedure provides:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.3 Consequences of not attending the hearing

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.

In the absence of an appearance of the tenant by 1:45 p.m. I find that this application is abandoned and dismissed without leave to reapply. The effective date of the Notice has passed and the tenancy is ending.

Therefore, as the tenants' application is dismissed and the 10 day Notice to end tenancy for unpaid rent is in the approved form, I find pursuant to section 55(1) of the Act that the landlord must be issued an order of possession.

The landlord is entitled to an order of possession effective two days after service to the tenant. However, the landlord has signed a mutual agreement to end the tenancy and agreed to an effective date of December 12, 2017 at midnight.

The landlord has been granted an order of possession that is effective at midnight on December 12, 2017. This order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The tenants' application is dismissed.

The landlord has been issued an order of possession.

This decision is final and binding and 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 06, 2017

Residential Tenancy Branch