



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL FF

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for orders as follows:

- cancellation of a 2 Month Notice to End Tenancy for Landlord's Use of Property pursuant to section 47 of the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*.

While the Respondent landlord, his counsel D.M. and his witness J.C. attended the hearing by way of conference call, the Applicant tenant did not, although I waited until 10:40 A.M. in order to enable the Applicant tenant to connect with this teleconference hearing scheduled for 10:30 A.M. The Respondent landlords attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Rule 10.1 of the Rules of Procedure provides as follows:

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

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 an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

- (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.*

Based on the 2 Month Notice entered into written evidence by the tenant, I find that the landlord's 2 Month Notice complied with section 52 of the *Act*. The tenant's failure to attend this hearing and present evidence relating to his application leads me to order that his application to cancel the 2 Month Notice is dismissed without liberty to reapply.

Based on my decision to dismiss the tenant's application for dispute resolution and my finding that the landlord's 2 Month Notice complies with section 52 of the *Act*, I find that this tenancy ends on the effective date of the 2 Month Notice, November 30, 2016. The landlord is entitled to an Order of Possession as of November 30, 2016.

As the tenant was unsuccessful in his application, he is unable to recover the \$100.00 fee from the landlord.

Conclusion

The tenant's application to cancel the landlord's 2 Month Notice is dismissed without liberty to reapply. The landlord is provided with a formal copy of an Order of Possession effective 2 days after service. Should the tenant fail to comply with this Order, this Order may be 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 11, 2017

Residential Tenancy Branch