



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL, CNR, FF

Introduction:

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to cancel the two month Notice to End Tenancy dated December 1, 2017
- b. An order to cancel a 10 day Notice to End Tenancy dated January 6, 2018
- c. An order to recover the cost of the filing fee.

The applicant failed to contact the telephone bridge number at the scheduled time for the hearing. The respondent was present and ready to proceed. The telephone line remained open while the phone system was monitored for ten minutes. The applicant failed to appear.

Rule 7.3 of the Rules of Procedure provides as follows:

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.

I find that the 2 month Notice to End Tenancy was served on the Tenant by mailing by registered mail to where the tenant resides on December 1, 2017. I find that the 10 day Notice to End Tenancy was served on the tenant by mailing, by registered mail to where the tenant resides on January 6, 2017. With respect to each of the applicant's claims I find as follows:

Issues to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the two month Notice to End Tenancy dated December 1, 2017?
- b. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated January 6, 2018.

c. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began in 2008. The present rent is \$800 per month payable in advance on the last day of the preceding month. The tenant(s) paid a security deposit of \$300 at the start of the tenancy.

The landlord testified the tenant has failed to pay the rent including \$400 for December 2017, \$200 for January 2018 and \$200 for February 2018. The landlord testified the tenant owes about \$10,000 in rent since the start of the tenancy.

The landlord also testified that his adult daughter intends to move into the rental unit. His grandson (the son of his daughter) is living in the house on the property and it will allow his grandson and his daughter to live in close proximity.

Analysis:

I determined the landlord was entitled to an order dismissing the Tenant's application without leave to re-apply pursuant to section 7.3 of the Rules of Procedure as the applicant failed to appear.

Further, based on the evidence presented I determined the landlord has sufficient grounds to end the tenancy on the basis of the 10 day Notice to End Tenancy. The landlord used the approved government form. The tenant owes outstanding rent. He failed to pay the arrears within the 5 day period that would void the Notice. As a result I dismissed the Tenant's application to cancel the 10 day Notice to End Tenancy.

The two month Notice to End Tenancy relies on section 49 of the Residential Tenancy Act which provides as follows:

- The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse

I determined that the landlord has established sufficient cause to end the tenancy based on the two month Notice to End Tenancy as I accept the landlord's testimony that he has a good faith intention that the rental unit shall be occupied by a close family member. That close family member is his daughter. I dismissed the tenant's application to cancel the 2 month Notice to End Tenancy.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession on 2 days notice.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

This decision is final and binding on the parties.

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: February 27, 2018

Residential Tenancy Branch