



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

This matter was set for a conference call hearing at 10:30 a.m. on this date. The tenant did not attend. The landlord attended the hearing via conference call and provided undisputed affirmed testimony. The landlord confirmed receipt of the tenant's notice of hearing package and the tenant's submitted documentary evidence. The landlord stated that the tenant still resided in the rental premises and that they seek an end to the tenancy. I accept the undisputed affirmed evidence of the landlord and find that the tenant has properly served the landlord with the notice of hearing package and the submitted documentary evidence. I find that the landlords have been sufficiently served as per section 90 of the Act.

I waited until 19 minutes past the start of the scheduled hearing time in order to enable both parties to connect with this teleconference hearing.

Rule 7 of the Rules of Procedure provides that:

7.1 Commencement of the dispute resolution hearing

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

7.2 Delay in the start of a hearing

In the event of a delay of a start of a conference call hearing, each party must stay available on the line to commence the hearing for 30 minutes after the time scheduled for the start of the hearing.

In the event of a delay of a face-to-face hearing, unless otherwise advised, the parties must remain available to commence the hearing at the hearing location for 30 minutes after the time scheduled for the start of the hearing.

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.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of any evidence or submissions from the tenant and in the absence of the tenant's participation in this hearing, I order the application dismissed without leave to reapply. I make no findings on the merits of the matter.

The landlord was informed during the hearing that as she was unable to provide any details of the 1 Month Notice dated January 25, 2018 that it could not be upheld.

However, pursuant to section 55 of the Act, if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if at the time of the scheduled hearing the landlord makes an oral request for an order of possession to end the tenancy and the tenant's application is dismissed or the landlord's notice is upheld.

In this case, the tenant's application was dismissed without leave to reapply. Although the landlord's notice was not upheld, pursuant to section 55 of the Act, the tenant's application was dismissed. As the effective date of the 1 Month Notice has now passed, the landlord is granted an order of possession effective 2 days after it is served to the tenant.

The order of possession must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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: March 28, 2018

Residential Tenancy Branch