



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act* (the “Act”), to cancel One Month Notice to End Tenancy for Cause, (the “Notice”) issued on April 16, 2018.

The Landlord’s Agent (the Agent) attended the conference call hearing; however, the Tenant did not. As the Tenant is the applicant in this hearing, I find that the Tenant had been duly notified of the Notice of Hearing in accordance with the *Act*.

The Agent was affirmed to be truthful in her testimony and was provided with the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter is described in this Decision.

Issue(s) to be Decided

- Should the Notice issued on April 16, 2018, be cancelled pursuant to section 47 of the Act?
- Is the Landlord entitled to an order of possession pursuant to section 55 of the Act?

Background and Evidence

The Agent testified that the tenancy began on August 1, 2012. Rent in the amount of \$844.85 is to be paid by the first day of each month. At the outset of the tenancy, the Tenant paid the Agent a \$375.00 security deposit. The Agent provided a copy of the tenancy agreement into documentary evidence.

The Agent testified that she served the Notice to the Tenant on April 16, 2018, by posting it to the Tenant’s door. As this hearing was convened due to the Tenant’s

application to cancel the notice, I find the Tenant had been duly served the Notice in accordance with the *Act*. The Agent provided a copy of the Notice into documentary evidence.

The reasons checked off by the Agent within the Notice are as follows:

- *Tenant is repeatedly late paying rent*
- *Tenant or a person permitted on the property by the tenant has:*
 - *Put the Landlord's property at significant risk*
- *Tenant has not done required repairs of damage to the unit/site*

The Notice states the Tenant must move out of the rental unit by May 31, 2018. The Notice informed the Tenant of the right to dispute the Notice within ten days after receiving it. The Tenant did file an application to dispute the notice on April 24, 2018; however, they did not attend the hearing.

The Agent testified that the Tenant is still living in the rental unit and requested the Order of Possession effective May 31, 2018.

Analysis

Based on the evidence before me, the testimony of the Agent, and on a balance of probabilities, I find as follow:

I find the Tenant was deemed to have received the Notice on April 19, 2018, and did apply to dispute the Notice within the legislated timeline. This matter was set for hearing by telephone conference call at 1:30 P.M. on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing was the Agent for the Landlord.

Rule 7.1 and 7.3 of the Rules of Procedure provides as follows:

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

7.3 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.

Therefore, as the Tenant did not attend the hearing by 1:41 P.M, I dismiss the Tenant's application without leave to reapply.

Section 55(1) of the *Act* states:

Order of possession for the landlord

- 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.

I have reviewed the Notice to end tenancy, and I find the Notice to end tenancy complies with section 52 of the *Act*.

As I have dismissed the Tenant's' application, pursuant to section 55 of the *Act*, I must grant the Landlord an Order of Possession to the rental unit.

Therefore, I grant the Landlord an order of possession effective May 31, 2018, at 1:00 P.M.

Conclusion

The Tenant's application is dismissed, without leave to reapply.

I grant an Order of Possession to the Landlord effective at 1:00 pm May 31, 2018. The Tenant must be served with this Order. Should the Tenant 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: May 22, 2018

Residential Tenancy Branch