



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOME INVESTMENTS L.T.D.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, OPR

Introduction

This hearing dealt with applications from both the tenant and the corporate landlord pursuant to the *Residential Tenancy Act* (the *Act*).

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

The landlord applied for an Order of Possession pursuant to section 55.

This matter was set for hearing by telephone conference call at 11:00 am on this date. The tenant did not attend this hearing which lasted approximately 10 minutes. The landlord appeared and was given a full opportunity to be heard, present evidence, make submissions and call witnesses. The named personal landlord KH (the "landlord") confirmed she also represented the corporate landlord.

The landlord testified that they served a 1 Month Notice personally on the tenant on February 22, 2018. The landlord testified that they served a 10 Day Notice to End Tenancy for Unpaid Rent on the tenant on April 2, 2018 and an application for dispute resolution with supporting evidence on April 12, 2018 by posting on the rental unit door. Based on the undisputed evidence I find that the tenant was served with all of the materials in accordance with section 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled? If not is the landlord entitled to an order of possession?

Is the landlord entitled to an order of possession on the basis of the 10 Day Notice?

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This tenancy began in May, 2017. The monthly rent is \$850.00 payable on the first of each month. The tenant still resides in the rental unit as at the date of the hearing.

The 1 Month Notice was issued as the tenant had breached a material term of the tenancy agreement by smoking in the rental unit despite several earlier warnings and significantly disturbing other occupants and the landlord through excessive noise and aggressive behaviour.

The 10 Day Notice was issued as the tenant failed to pay the full rent for April, 2018. The landlord only received \$550.00 for rent from social assistance and the tenant failed to pay their contribution. The landlord testified that the tenant failed to pay their contribution for the month of May and the tenancy is in arrears by \$600.00 as at the date of the hearing.

Analysis

The tenant did not attend the hearing which was scheduled by conference call at 11:00am. Rule 7.3 of the Rules of Procedure provides that:

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.

Consequently I dismiss the tenant's entire application without leave to reapply.

Section 55 of the *Act* provides that:

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.

As I have dismissed the tenant's application, and I find that the landlord's 1 Month Notice complies with the form and content requirements of section 52 as it is signed and dated by the landlord, provide the address of the rental unit, the effective date of the notice, and the grounds for the tenancy to end, I find that the landlord is entitled to an Order of Possession pursuant to section 55. As the effective date of the notice has passed, I issue an Order of Possession effective two (2) days after service.

As I have issued an order of possession on the basis of the 1 Month Notice I find it unnecessary to make a finding regarding the 10 Day Notice.

Conclusion

I dismiss the tenant's application.

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises 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 8, 2018

Residential Tenancy Branch