



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC CNR

Introduction, Preliminary Matters and Analysis

This hearing dealt with the tenant's Application for Dispute Resolution ("application") under the *Residential Tenancy Act* ("Act") seeking to cancel a 1 Month Notice to End Tenancy for Cause dated March 12, 2018 ("1 Month Notice"), and to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice").

The landlord and a translator for the landlord ("translator") attended the teleconference hearing. The hearing was by telephone conference call and began promptly as scheduled at 11:00 a.m. on this date, June 5, 2018 as per the Notice of a Dispute Resolution Hearing provided to the tenant dated March 22, 2018 ("Notice of Hearing"). The line remained open while the phone system was monitored for 24 minutes and the only participants who called into the hearing during this time was the landlord and an interpreter for the landlord.

The tenant did not attend this hearing, although I left the teleconference hearing connection open for 24 minutes as indicated above. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord confirmed their email address at the outset of the hearing. The landlord confirmed their understanding that the decision would be emailed to them and would include any applicable orders.

After the standard 10 minute waiting period, the tenant's application was **dismissed in full, without leave to reapply**. Section 55 of the *Act* applies and 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.**

[My emphasis added]

As I have reviewed the 1 Month Notice and find that it complies with section 52 of the *Act*, and pursuant to section 55 of the *Act*, I grant the landlord an order of possession effective **two (2) days** after service on the tenant. I do not find it necessary to consider the 10 Day Notice as a result of the above.

The effective date listed on the 1 Month Notice was April 17, 2018 which automatically corrects to April 30, 2018 as rent was due on the first day of each month according to the tenancy agreement submitted in evidence. I find the tenancy ended on April 30, 2018 as a result.

The landlord testified that a person named "Travis" occupies the rental unit but has not paid rent and has not been approved in writing by the landlord so is considered by the landlord to be an occupant and not a tenant with no rights under the *Act*. I agree with the landlord and find that Travis is an occupant and not a tenant and therefore has no rights under this *Act*. I also accept the landlord's undisputed testimony that no money for rent or for use and occupancy has been paid for April, May or June 2018 yet Travis continues to occupy the rental unit. Therefore, the order of possession I have granted applies to Travis and all other occupants and they must vacate within two (2) days of service of the order of possession.

Conclusion

The tenant's application has been dismissed in full, without leave to reapply.

The tenancy ended on April 30, 2018. The landlord has been granted an order of possession effective two (2) days after service on the tenant and applies to all occupants in the rental unit. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: June 5, 2018

Residential Tenancy Branch