



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNC CNL ERP

Introduction

This hearing dealt with the Tenants' Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") seeking to cancel a 2 Month Notice to End Tenancy for Landlord's use of the property (the "2 Month Notice") dated May 31, 2018, and to cancel a 10-Day Notice to End Tenancy for unpaid rent or utilities (the 10 Day Notice), dated June 3, 2018.

The respondent landlord attended the hearing. The hearing was by telephone conference and began promptly, as scheduled, at 11 a.m. Pacific Time on July 24, 2018, as per the Notice of a Dispute Resolution Hearing provided to the tenants. The line remained open while the phone system was monitored for 10 minutes and the only participant who called into the hearing during this time was the respondent Landlord who was ready to proceed. The Landlord testified that the tenant continues to occupy the rental unit.

After the ten minute waiting period, the Tenants' 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]

First, I turn to the 10 Day Notice. The landlord stated he served the 10 Day Notice to the Tenants on June 3, 2018, by posting a copy to the Tenant's front door. The Landlord provided a proof of service for this 10 Day Notice. Pursuant to section 88 and 90 of the Act, I find the Tenants received this Notice on June 6, 2018, the third day after it was posted.

Pursuant to section 46 of the Act, as the tenants failed to attend the hearing, I find the 10 Day Notice to be considered undisputed by the tenant as a result.

Pursuant to section 55 of the Act, and having reviewed the 10 Day Notice, which I find complies with section 52 of the Act, I grant the landlord an order of possession effective **two (2) days** after service on the tenants.

Having made this finding, it is not necessary to look at the 2 Month Notice, given that the Landlord has already been granted an order of possession based on the 10 Day Notice, as specified above.

Conclusion

The tenants' application has been dismissed in full, without leave to reapply as the tenants failed to attend the hearing.

The landlord has been granted an order of possession effective two (2) days after service on the tenants. This order must be served on the tenants and may be enforced in 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: July 25, 2018

Residential Tenancy Branch