



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Tenants under the *Residential Tenancy Act* (the “Act”), seeking cancellation of a One Month Notice to End Tenancy for Cause (the “One Month Notice”).

I note that section 55 of the *Act* requires that when a tenant submits an Application seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with section 52 of the *Act*.

The hearing was convened by telephone conference call and was attended by the Landlord, who provided affirmed testimony. The Tenants did not attend. The Landlord attended the hearing at the scheduled time, ready to proceed, and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. Although the line remained open for 18 minutes, neither the Applicants nor an agent acting on their behalf appeared.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”); however, I refer only to the relevant facts and issues in this decision.

Rule 7.1 of the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. As the Landlord and I attended the hearing on time and ready to proceed and there was no evidence before me that the parties had agreed to reschedule or adjourn the matter, I commenced the hearing as scheduled at 11:00 A.M. on October 4, 2018. Rule 7.3 of the Rules of Procedure states 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 reapply. Although the line remained open for 18 minutes, neither the Applicants nor an agent acting on their behalf appeared to provide any evidence or

testimony for my consideration. As a result, and pursuant to rule 7.3 of the Rules of Procedure, I dismiss the Tenants' Application without leave to reapply.

Having made the above finding, I will now turn my mind to whether the Landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*.

The One Month Notice in the documentary evidence before me is signed and dated by the Landlord, gives the address of the rental unit, states the effective date of the One Month Notice and the reason for ending the tenancy, and is in the approved form. As a result, I find that it complies with section 52 of the *Act* and the Landlord is therefore entitled to an Order of Possession pursuant to section 55 of the *Act*.

Although the effective date of the One Month Notice is September 8, 2018, the Landlord testified that the One Month Notice was personally served on August 8, 2018, and that rent is due on the first day of each month under the tenancy agreement. As a result, I find that this date does not comply with the minimum notice period required under section 47(2) of the *Act*. Pursuant to section 53 of the *Act*, I find that the effective date is therefore automatically corrected to September 30, 2018.

As the corrected effective date of the One Month Notice has passed and the Landlord testified that rent has been paid in full for use and occupancy only for October, 2018, the Order of Possession will therefore be effective at 1:00 P.M. on October 31, 2018.

Conclusion

The Tenants' Application is dismissed without leave to reapply.

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the Landlord effective at **1:00 P.M. on October 31, 2018, after service of this Order** on the Tenants. The Landlord is provided with this Order in the above terms and the Tenants must be served with **this Order** as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

At the request of the Landlord, copies of the decision and any orders issued in his favor will be mailed and e-mailed to him at the addresses provided by him in the hearing.

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: October 4, 2018

Residential Tenancy Branch