Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FRONT STREET REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes   CNC

Introduction

On July 13, 2018, the Tenants filed an Application for Dispute Resolution under the *Residential Tenancy Act* ("the *Act*") to cancel a One Month Notice to End Tenancy for Cause (the Notice). The matter was set for a conference call.

The Landlord attended the conference call hearing; however, the Tenants did not. As the Tenants are the applicants in this hearing, I find that the Tenants had been duly notified of the Notice of Hearing in accordance with the *Act*.

The Landlord 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 are described in this Decision

Issues to be Decided

  •   Should the Notice to End Tenancy be cancelled?
  •   If not, is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord testified that she personally served the Notice to End Tenancy to the Tenants on June 29, 2018. The Landlord also testified that the Tenants had not moved out in accordance with the Notice and requested the Order of Possession.

<u>Analysis</u>

Based on the above, the oral testimony and the documentary evidence, and on a balance of probabilities, I find as follows:

I find that the Tenants received the One Month Notice on June 29, 2018, and did apply to dispute the Notice within the legislated timeline. This matter was set for hearing by telephone conference call at 11:00 a.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 Landlord.

Rules 7.1 and 7.3 of the Rules of Procedure provide 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 Tenants did not attend the hearing by 11:10 A.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; I find the Notice complies with section 52 of the *Act*.

As I have dismissed the Tenants' application, pursuant to section 55 of the *Act,* I must grant the landlord an order of possession to the rental unit.

Therefore, I find that the Landlord is entitled to an order of possession effective not later than 2 days after service upon the Tenants.

Conclusion

The Tenants' application is dismissed, without leave to reapply.

I grant an **Order of Possession** to the Landlord effective not later than **2 days** after service upon the Tenants. The Tenants must be served with this Order. Should the tenants 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: September 6, 2018

Residential Tenancy Branch