Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution (the "Application") that was filed by the Tenant 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 three agents for the Landlord (the "Agents'), all of whom provided affirmed testimony. The Tenant did not attend. The Notice of Dispute Resolution Proceeding states the date and time of the hearing, that the hearing will be conducted by telephone conference call, and provides the phone number and access code for the hearing. It also instructs participants that they are to call into the hearing themselves no more than five minutes before the start of the hearing. I confirmed that the details shown in the Notice of Dispute Resolution Proceeding was correct and I note that the Agents were able to attend the hearing promptly using the information contained in the Notice of Dispute Resolution Proceeding package served on them by the Tenant. The Agents attended the hearing at the scheduled time, ready to proceed, and were 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 12 minutes, neither the Applicant nor an agent acting on their behalf appeared to provide evidence or testimony for my consideration.

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 Rules of Procedure states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. As the Agents 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 23, 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. As neither the Tenant nor an agent acting on their behalf attended the hearing to present any evidence or testimony for my consideration regarding the Tenant's Application, I therefore dismiss the Tenant's 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 or an agent for 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, September 30, 2018, has passed, the Agents testified that rent has been paid in full for use and occupancy of the rental unit only for October, 2018, and therefore sought an Order of Possession for
October 31, 2018. As a result, the Order of Possession will therefore be effective at 1:00 P.M. on October 31, 2018.

Conclusion

The Tenants' Application seeking cancellation of the One Month Notice 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 Tenant. The Landlord is provided with this Order in the above terms and the Tenant must be served with **this Order** as soon as possible. Should the Tenant 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.

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 23, 2018

Residential Tenancy Branch