



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, MT.

Introduction:

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to cancel the one month Notice to End Tenancy dated March 20, 2019 and setting the end of tenancy for April 30, 2019
- b. An order for more time to make this application.

The tenant(s) failed to appear at the scheduled start of the hearing which was 1:00 a.m. on May 13, 2019 at 11:00 a.m. Two representatives of the landlord were present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the schedule start time in order to enable the tenant to call in. The tenant(s) failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The representatives of the landlord were given a full opportunity to present affirmed testimony, to make submissions and to call witnesses.

On the basis of the solemnly affirmed evidence presented at the hearing a decision has been reached. All of the evidence was carefully considered.

I find that the one month Notice to End Tenancy was served on the Tenant by placing it in her mail slot on March 20, 2019. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord in late March 2019. With respect to each of the applicant's claims I find as follows:

Issues to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated March 20, 2019?
- b. Whether the tenant is entitled to more time to make the application?

Background and Evidence:

The tenancy began on January 1, 2019. The tenancy agreement provided that the tenant(s) would pay rent of \$895 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$447.50 at the start of the tenancy.

Grounds for Termination:

The Notice to End Tenancy identifies the following grounds:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord

The landlord testified they received numerous complaints from other residents in the rental property that the conduct of the tenant had significantly interfered with and unreasonably disturbed them. The landlord provided copies of the statements from a number of witnesses.

After receiving the Notice to End Tenancy the tenant went to the landlord and asked that she be given additional time to move. After discussion the landlord agreed and the parties signed a mutual agreement to end the tenancy effective May 15, 2019.

Analysis:

I ordered that the Tenant's application to cancel the one month Notice to End Tenancy be dismissed without leave to re-apply for the following reasons:

- Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

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.

- The Applicant failed to appear at the hearing. Two respondents were present. I accept the evidence of the landlord that the tenant's conduct has significantly interfered with and unreasonably disturbed other occupants in the rental property.
- In addition the parties have signed a mutual agreement to end the tenancy on May 15, 2019.

As a result I ordered the application of the tenant to cancel the one month Notice to End Tenancy be dismissed without liberty to re-apply.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession effective May 15, 2019.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

This decision is final and binding on the parties.

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: May 13, 2019

Residential Tenancy Branch