



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution filed on April 9, 2019 wherein the Tenant sought to cancel a 1 Month Notice to End Tenancy for Cause issued on March 31, 2019 (the "Notice") as well as to recover the filing fee.

The hearing was scheduled for teleconference at 11:00 a.m. on May 3, 2019. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the Respondent Landlord. The Tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:14 a.m.

I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

Analysis and Conclusion

Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* provide as follows:

Commencement of Hearing:

The hearing must commence at the scheduled time unless otherwise decided by the arbitrator.

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.

It is not simply enough for a Tenant to apply to dispute a Notice; the Tenant must also appear at the hearing to present their case. As the Tenant did not call into the hearing by 11:14 a.m., and the Landlord appeared and was ready to proceed, **I dismiss the Tenant's claim without leave to reapply.**

Section 55 of the *Residential Tenancy Act* provides as follows:

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 and confirm it complies with section 52 of the *Act*.

The Landlord also submitted a substantial amount of evidence, including correspondence, warning letters, and photos, to support the reasons for ending the tenancy. The Landlord testified that the most concerning issue is that the Tenant repairs vehicles in the parkade which is a safety and insurance risk. The Landlord also testified that he has tried to work with the Tenant to resolve these issues, has sent numerous warnings to the Tenant (all of which were provided in evidence) and issued the Notice as a last resort. In all the circumstances, I find the Landlord had cause to issue the Notice and to end this tenancy.

Pursuant to section 55 of the *Act*, and having dismissed the Tenant's Application and found the Notice complies with section 52, I must grant the Landlord an Order of Possession. This Order shall be effective **two days** after service upon the Tenant. The Landlord must also serve a copy of the Order on the Tenant and may be enforced in the Supreme Court of British Columbia.

This Decision is final and binding on the parties, except as otherwise provided under the *Act*, and 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 3, 2019

Residential Tenancy Branch