Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AQUILINI PROPERTIES LIMITED
PARTNERSHIP and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes   CNC

Introduction

This matter dealt with an application by the Tenants to cancel a Notice to End Tenancy for Cause.

The Tenant said he gave the application to dispute the Notice to End Tenancy and the Notice of Hearing to one of the other Tenants, but he didn't know if the Hearing Package was served to the Landlord and if it was served when it was served.

The Landlord said they did not receive any documentation from the Tenants but received and email confirming the hearing from the Residential Tenancy Branch, which is how the Landlord got the hearing date and call in information.

The Tenant said he didn't know if the other Tenant served the Landlord or not.

Based on the evidence of the Landlord and Tenant; I find that the Landlord was not served with the Tenants' hearing package as required by s. 89 of the Act. Service of the Hearing package is to be within 3 days of filing an application and in this situation the Hearing package was not served at all. Consequently, the Tenants' application is dismissed without leave to reapply due to lack of service.

Further, as the Tenants' application is dismissed and pursuant to section 55 of the Act, I award an Order of Possession to the Landlord effective 9:00 a.m. on July 15, 2019.

Conclusion

The Tenants' application is dismissed without leave to reapply.

An Order of Possession effective July 15, 2019 has been issued to the Landlord. A copy of the Order must be served on the Tenant in accordance with the Act: the Order of Possession and may be enforced in 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: July 08, 2019

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Residential Tenancy Branch