



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M, FFT

Introduction

I was designated to hear this matter pursuant to section 58 of the *Residential Tenancy Act* (the *Act*). This hearing dealt with the tenant's application for:

- cancellation of the landlord's 4 Month Notice to End Tenancy for Landlord's Use of Property (the 4 Month Notice) pursuant to section 49; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The Applicant (the tenant) did not attend this hearing, although I left the teleconference hearing connection open until 9:42 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord's representative attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the teleconference system that the landlord's representative and I were the only ones who had called into this teleconference.

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Accordingly, in the absence of any attendance at this hearing by the Applicant, I order the application dismissed without liberty to reapply.

Issues(s) to be Decided

Should the landlord's 4 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The landlord entered into written evidence a copy of the 4 Month Notice, which the tenant's application acknowledged was received after having been posted on their door on August 30, 2019. The landlord also entered into written evidence a copy of a November 13, 2019 written agreement between the parties, in which the tenant committed to vacate the rental unit no later than December 7, 2019.

At the hearing, the landlord's representative advised that the tenant had encountered difficulty in locating alternative accommodation such that the tenant could honour the commitment to end this tenancy by December 7, 2019. The landlord's representative testified that the landlord had agreed to allow the tenant to remain in the rental unit until December 31, 2019, the effective date identified on the 4 Month Notice. The landlord's representative also advised that the landlord had allowed the tenant to remain in the rental unit without paying rent for the month of December 2019, in order to comply with the provisions of the *Act* that flow from the landlord's issuance of the 4 Month Notice.

Analysis

Section 55(1) of the *Act* reads as follows:

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 am satisfied that the landlord's 4 Month Notice entered into written evidence was on the proper RTB form and complied with the content requirements of section 52 of the *Act*. For these reasons, I find that the landlord is entitled to an Order of Possession.

The landlord will be given a formal Order of Possession which must be served on the tenant.

Conclusion

I dismiss the tenant's application without leave to reapply.

The landlord is provided with a formal copy of an Order of Possession effective by 1:00 p.m. on December 31, 2019. If the tenant does not vacate the rental unit by that time and date, the landlord may enforce this Order 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: December 09, 2019

Residential Tenancy Branch