



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on November 28, 2019 (the "Application"). The Tenant applied to dispute a One Month Notice to End Tenancy for Cause dated November 26, 2019 (the "Notice").

The Tenant appeared at the hearing with the Advocate. Nobody attended the hearing for the Landlord. I waited 10 minutes to allow someone for the Landlord to call into the hearing; however, nobody did. I confirmed from the teleconference system that the Tenant, Advocate and I were the only ones who had called into this teleconference. I confirmed the correct call-in numbers and participant code had been provided in the Notice of Hearing.

This hearing was originally set for January 21, 2020. At the first hearing, the Tenant appeared with A.M. and J.S. appeared as agent for the Landlord. A.M., on behalf of the Tenant, sought an adjournment as the Tenant was in the hospital. J.S. agreed to an adjournment on the basis that the adjourned hearing would be set within two weeks. It was decided that the adjourned hearing would be set for Friday, February 07, 2020 at 11:00 a.m. Both parties agreed to adjourn the hearing to this date. An Interim Decision was issued January 21, 2020.

At the first hearing, J.S. confirmed receipt of the hearing package for the Application. The only evidence submitted by the Tenant was the Notice. The Landlord had submitted evidence prior to the first hearing.

RTB records show the Interim Decision and a new Notice of Hearing were emailed to the parties January 22, 2020.

At the adjourned hearing, the Advocate confirmed she received the Interim Decision and new Notice of Hearing and had no trouble calling into the hearing.

Issue to be Decided

1. Should the Notice be cancelled?

Background and Evidence

The teleconference lasted 12 minutes. Nobody called into the teleconference for the Landlord.

Analysis

Rule 6.6 of the Rules of Procedure (the “Rules”) states:

...The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy. (emphasis added)

Rule 7.4 of the Rules states:

Evidence must be presented by the party who submitted it, or by the party’s agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

The Landlord has the onus to prove the grounds for the Notice.

Nobody appeared at the adjourned hearing for the Landlord to present the documentary evidence or provide verbal testimony in relation to the Notice.

I decline to consider the documentary evidence submitted by the Landlord in the absence of an agent for the Landlord appearing at the hearing to present and explain it.

I am satisfied the Landlord was aware of the adjourned hearing for the following reasons. J.S. confirmed receipt of the original hearing package at the first hearing. J.S. appeared at the first hearing. At the first hearing, J.S. agreed to the hearing being adjourned to the specific date and time of the adjourned hearing. The Landlord was sent the Interim Decision and new Notice of Hearing for the adjourned hearing on January 22, 2020, more than two weeks prior to the adjourned hearing.

At the adjourned hearing, I waited 10 minutes to allow someone for the Landlord to appear at the adjourned hearing.

In the absence of evidence from the Landlord, the Notice has not been proven. Therefore, the Notice is cancelled. The tenancy will continue until ended in accordance with the *Act*.

Conclusion

The Application is granted. The Notice is cancelled. The tenancy will continue until ended in accordance with the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: February 07, 2020

Residential Tenancy Branch