



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, RP

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on March 3, 2020, wherein the Tenant sought an Order canceling a 1 Month Notice to End Tenancy for Cause as well as an Order that the Landlord make repairs to the rental unit.

The hearing of the Tenant's Application was scheduled for teleconference at 11:00 a.m. on April 28, 2020. 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 Landlord. The Landlord stated that he was not served with the Tenant's Application; rather, he called the Residential Tenancy Branch to ask questions about evictions during the current Provincial State of Emergency and was informed during that call that the Tenant had applied to dispute the Notice.

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.

The Landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

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.

As the Applicant Tenant did not attend the hearing, and the Respondent Landlord appeared and was ready to proceed, **I dismiss without leave to reapply the Tenant's Application for Dispute Resolution filed on March 3, 2020.**

As I have dismissed the Tenant's request that I cancel the Notice, the tenancy shall end in accordance with the Notice. In such cases, a Landlord is entitled to an Order of Possession pursuant to section 55 of the *Residential Tenancy Act* which provides in part as follows:

Order of possession for the landlord

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*. Consequently, and as I have dismissed the Tenant's claim, the Landlord is entitled to an Order of Possession effective two days after service.

As discussed during the hearing, *Ministerial Order M089* issued March 30, 2020, pursuant to the State of Emergency declared on March 18, 2020, prohibits the enforcement of certain Residential Tenancy Branch orders made during the state of emergency. Enforcement of other Residential Tenancy Branch orders may be affected by the suspension of regular court operations of the BC Supreme Court and Provincial Court.

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: April 28, 2020

Residential Tenancy Branch