



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking cancellation of a One Month Notice to End Tenancy for Cause (the “One Month Notice”).

I note that section 55 of the *Act* requires that when a tenant submits an Application seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with section 52 of the *Act*.

The hearing was convened by telephone conference call and was attended by the agent for the Landlord (the “Agent”), who provided affirmed testimony. The Tenant did not attend.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”); however, I refer only to the relevant facts and issues in this decision.

Rule 7.1 of the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. As the Agent and I attended the hearing on time and ready to proceed and there was no evidence before me that the parties had agreed to reschedule or adjourn the matter, I commenced the hearing as scheduled at 9:30 A.M. on May 1, 2020. Rule 7.3 of the Rules of Procedure states that 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 reapply. Although the line remained open for 18 minutes, neither the Applicant nor an agent acting on their behalf appeared to provide any evidence or testimony for my consideration. As a result, and pursuant to rule 7.3 of the Rules of Procedure, I dismiss the Tenant’s Application without leave to reapply.

Having made the above finding, I will now turn my mind to whether the Landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*.

The Tenant did not submit any documentary evidence or a copy of the One Month Notice with their Application. The Agent stated that they did not submit a copy as they believed this was the Tenant's responsibility and that they did not file their own application in relation to the One Month Notice as they were advised by the Residential Tenancy Branch (the "Branch") over the phone that the Landlord could get an Order of Possession as a result of the Tenant's hearing. In the hearing the Landlord provided me with oral testimony as to the contents and service of the One Month Notice and I advised the Landlord to submit a copy through the online dispute resolution system for my review by 4:30 P.M on May 1, 2020, the date of the hearing.

In the hearing the Agent stated that the One Month Notice was posted to the door of the rental unit on February 26, 2020, and the Tenant stated in their Application that it was received that date. As a result, I find as fact that the One Month Notice was served on the Tenant on February 26, 2020.

The Agent stated that rent is due on the first of the month and that no rent has been paid yet for May, as today is only May 1, 2020.

The Agent complied with my request and submitted a copy of the One Month Notice for my review.

The One Month Notice is signed and dated February 26, 2020, gives the address of the rental unit, states the effective date of the One Month Notice, March 27, 2020, and is in the approved form. It also states the grounds for ending the tenancy on the second page under the sections titled "REASONS FOR THIS 1 MONTH NOTICE TO END TENANCY" and "DETAILS OF THE CAUSE".

As a result of the above, I find that the One Month Notice complies with section 52 of the *Act* and the Landlord is therefore entitled to an Order of Possession pursuant to section 55 of the *Act*. As the effective date of the One Month Notice,

Although the effective date of the One Month Notice is March 27, 2020, the Agent testified that rent is due on the first of each month and I have already found above that the One Month Notice was served on February 26, 2020. As a result, I find that

March 31, 2020, is the earliest date upon which the Landlord could end the tenancy under section 47 (2) of the *Act*. Pursuant to section 53 of the *Act*, I find that the effective date is therefore automatically corrected to March 31, 2020.

As the corrected effective date of the One Month Notice has passed, the Order of Possession will therefore be effective two days after service on the Tenant.

Conclusion

The Tenants' Application is dismissed without leave to reapply.

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. The Landlord is provided with this Order in the above terms and the Tenant must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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.

At the request of the Agent, copies of the decision and the Order of Possession will be e-mailed to them at the email address provided in the hearing.

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: May 1, 2020

Residential Tenancy Branch