



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”) that was filed by the Tenants 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 although the Landlord and I attended the hearing on time and ready to proceed, the Tenants did not attend. The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondent must be served with a copy of the Application and Notice of Hearing, however, the Landlord stated that they were not served with notice of the hearing by the Tenants and became aware of the hearing and the Tenants’ Application when they called the Residential Tenancy Branch (the “Branch”) to make their own inquiries about ending the tenancy.

The ability to know the case against you and to submit evidence in your defense is fundamental to the dispute resolution process. As a result, I find that it would be a breach of both the Rules of Procedure and the principles of natural justice to accept the Tenants’ Application for consideration in this hearing as it has not been served on the Landlord as required by the *Act* and the Rules of Procedure.

Further to this, rule 7.1 of the Rules of Procedure states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. As the Landlord 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 5, 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 until 9:51 A.M., neither the Tenants nor an agent for the Tenants appeared.

As a result, of the above, and pursuant to rule 7.3 of the Rules of Procedure, I therefore dismiss the Tenants' Application without leave to reapply.

As the Tenants' Application has been dismissed, section 55 of the *Act* requires that I grant the Landlord an Order Possession for the rental unit, if the One Month Notice complies with section 52 of the *Act*. Although the Landlord stated that the Tenants have signed a mutual agreement to end tenancy and are planning to leave by Friday May 8, 2020, they still wished to obtain an Order of Possession in relation to this Application in the event the Tenants do not vacate in accordance with their mutual agreement. The One Month Notice in the documentary evidence before me from the Tenants is signed and dated by the Landlord or their agent, gives the address of the rental unit, states the effective date of the One Month Notice and the reasons for ending the tenancy, and is in the approved form. As a result, I find that the One Month Notice complies with section 52 of the *Act*. 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, March 31, 2020, has passed, and the Landlord states that rent has not been paid for March, April or May, the Order of Possession will be effective two days after service on the Tenants. As the Landlord stated that the property management company listed as the landlord on the Application no longer works for them, the Landlord, who is listed as the business contact for the Landlord on the Application and states that they are the owner of the property, requested that the Order of Possession be issued in their name and the name of their business.

Conclusion

The Tenant's Application is dismissed without leave to reapply.

Pursuant to sections 52 and 55 of the *Act*, I grant an Order of Possession to the Landlord, effective at **two days after service** of this Order on the Tenants. The Landlord is provided with this Order in the above terms and the Tenants must be served with this Order as soon as possible. Should the Tenants 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.

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 5, 2020

Residential Tenancy Branch