



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction, Preliminary and Procedural Matters-

This telephone conference call hearing was convened as the result of the tenants' application for dispute resolution under the Residential Tenancy Act (Act). The tenants applied for:

- an order cancelling the Two Month Notice to End Tenancy for Landlord's Use of Property (Notice) issued by the landlord; and
- recovery of the filing fee.

The hearing began at 11:00 a.m. Pacific Time on Thursday, May 7, 2020, as scheduled, and the telephone system remained open and was monitored for 15 minutes. During this time, the tenants did not call into the hearing; however, the landlord's agent (landlord) attended and announced that she was ready to proceed.

I continued the hearing for 15 minutes, in order to allow the tenants to call into the hearing and to hear affirmed testimony from the landlord.

The landlord's evidence submitted in advance of the hearing showed that they served the tenants with the Notice, by personal service, on February 24, 2020. The Notice listed that the rental unit will be occupied by the landlord or spouse.

The landlord also confirmed that the tenants had paid the monthly rent for May 2020.

Analysis and Conclusion

Rule 7.3 of the Rules of Procedure provides as follows:

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.

Accordingly, **in the absence of any evidence or submissions, I order the application of the tenants dismissed.**

As the respondent/landlord attended and was ready to proceed, I dismiss the tenants' application seeking cancellation of the Notice, without leave to reapply.

I have reviewed the Notice and find it complies with section 52 *[form and content of notice to end tenancy]*.

As I have dismissed the tenant's application, I must grant an order of possession of the rental unit to the landlord, pursuant to section 55(1)(b) of the Act.

As such, I find that the landlord is entitled to and I therefore grant her an order of possession for the rental unit effective at 1:00 p.m. on May 31, 2020, pursuant to section 55(1)(b) of the Act. The order of possession is included with the landlord's Decision. I have made the order of possession of the rental unit effective for May 31, 2020, in recognition of the tenants' monthly rent being fully paid through that date.

Should the tenants fail to vacate the rental unit pursuant to the terms of the order after it has been served upon them, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

Although I have ordered the tenancy will end pursuant to section 46 and 55(1)(b) of the Act, 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.

Conclusion

The tenants' application is dismissed, without leave to reapply, due to their failure to attend the hearing seeking cancellation of the Notice.

The landlord has been issued an order of possession for the rental unit, effective at 1:00 p.m. on May 31, 2020.

The order of possession of the rental unit will become enforceable as noted above.

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 7, 2020

Residential Tenancy Branch