



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1137807 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on June 6, 2020, wherein the Landlord sought an early end to tenancy pursuant to section 56 of the *Residential Tenancy Act* (the "Act") and recovery of the filing fee.

The hearing of the Landlord's Application was scheduled for 9:30 a.m. on July 7, 2020. The line remained open until 9:40 a.m. and the only participant who called into the hearing during this time was the Respondent Tenant. 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 Respondent and I were the only ones who had called into this teleconference.

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, the Landlord bears the burden of proving their claim on a balance of probabilities. As the Applicant did not call into the hearing by 9:40 a.m. **I dismiss the Landlord's claim without leave to reapply.**

Although I am dismissing the Landlord's claim due to their failure to attend the hearing, I note the following. The parties appeared before me on April 3, 2020 on a Tenant's Application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued January 2, 2020. The Tenant was unsuccessful in that Application and I granted the Landlord an Order of Possession on April 3, 2020. As the Order was granted during the B.C. Provincial State of Emergency, it was not enforceable.

On June 24, 2020, the *Residential Tenancy (Covid-19) Order* was repealed; as such, Landlords with existing orders for eviction can file and enforce their Orders in the B.C. Supreme Court beginning July 2, 2020.

As the Landlord has already obtained an Order of Possession which can be enforced in the B.C. Supreme Court, the Landlord's request for a further Order of Possession pursuant to section 56 of the *Act* is not applicable. As such, even had the Landlord called into the hearing I would have dismissed their request for a further Order of Possession.

Having been unsuccessful in this Application I also decline the Landlord's request for recovery of the filing fee.

The Tenant was cautioned during the hearing that any costs incurred by the Landlord to enforce the Order of Possession may be recoverable from the Tenant.

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: July 07, 2020

Residential Tenancy Branch