



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, RP, LRE, OLC, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony.

At the outset, the tenant was asked how and when the landlord was served with the notice of hearing package. The tenant responded via Canada Post Registered Mail but was unable to provide a date. The tenant stated that he would look through his paperwork. During this time, the tenant would yell obscenities. After a few minutes, the tenant disconnected from the conference call at 11:09am.

The conference call hearing was paused and the landlord notified that we would wait until 11:15am to allow the tenant an opportunity to call back in. At 11:15am, the tenant failed to reconnect to the conference call. The hearing resumed. Extensive discussion with the landlord lasted until 35 minutes past the start of the hearing.

After waiting 35 minutes past the start of the scheduled hearing time in order enable the tenant to re-connect with this teleconference hearing.

Rule 7 of the Rules of Procedure provides that:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.2 Delay in the start of a hearing

In the event of a delay of a start of a conference call hearing, each party must stay available on the line to commence the hearing for 30 minutes after the time scheduled for the start of the hearing.

In the event of a delay of a face-to-face hearing, unless otherwise advised, the parties must remain available to commence the hearing at the hearing location for 30 minutes after the time scheduled for the start of the hearing.

7.3 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.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of any evidence or submissions from the tenant and in the absence of the tenant's participation in this hearing, I order the application dismissed without leave to reapply. I make no findings on the merits of the matter.

The landlord confirmed that rent was payable on the 1st day of each month and that the 1 month notice was served 3 different ways. The landlord confirmed based upon the tenant's written submissions that the 1 month notice was served via Canada Post Registered Mail on March 20, 2020. The landlord also stated that one of the other ways was a copy was placed in the tenant's mailbox on March 20, 2020. The landlord was notified that as the 1 month notice dated July 17, 2010 was served on March 20, 2020 and confirmed received by the tenant on March 20, 2020, the effective end of tenancy date of August 24, 2020 is corrected to August 31, 2020.

Pursuant to Section 55 of the Act, the landlord is granted an order of possession.

The order of possession must be served upon the tenant. Should the tenant fail to comply with this order, the 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: August 28, 2020

Residential Tenancy Branch