



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Landlord under the Residential Tenancy Act (the Act), seeking an order of possession based on an uncontested One Month Notice to End Tenancy for Cause (the One Month Notice).

This matter was set for hearing by telephone conference call at 11:00 A.M. (Pacific Time) on September 17, 2020. The hearing was attended by Tenants, who provided affirmed testimony. No one attended on behalf of the Landlord. The Notice of Dispute Resolution Proceeding states the date and time of the hearing, that the hearing will be conducted by telephone conference call, and provides the phone number and access code for the hearing. It also instructs participants that they are to call into the hearing themselves no more than five minutes before the start of the hearing. I confirmed that the details shown in the Notice of Dispute Resolution Proceeding were correct and note that the Tenants were able to attend the hearing on time using the hearing information contained in the Notice of Dispute Resolution Proceeding served on them by the Landlord. Although the line remained open while the phone system was monitored for 13 minutes, no participant called into the hearing on behalf of the Landlord during this time.

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 Tenants 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 11:00 A.M. on September 17, 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. Rule 6.6 of the Rules of Procedure states that the standard of proof in a dispute resolution hearing is on a balance of probabilities and that the onus to

prove their case is on the person making the claim. Further to this, rule 8.1 of the Rules of Procedure states that the arbitrator determines when the hearing has ended.

Based on the above, and as the Applicant did not attend the hearing by 11:13 A.M., I therefore dismiss the Application without leave to reapply. As the Landlord's Application was in relation to enforcement of a One Month Notice, I therefore order that the One Month Notice which was the subject of the Landlord's Application is also cancelled and of no force or effect.

IN addition to the above, I also find that the One Month Notice in the documentary evidence before me for consideration from the Landlord is not signed. As a signature is a requirement for a notice to end tenancy to be valid under section 52 of the Act, I find that the One Month Notice would also have been invalid for this reason.

At the request of the Tenants, copies of the decision will be mailed to them at the rental unit. A copy of the decision will also be email to the Landlord at the email address provided in the Application.

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: September 17, 2020

Residential Tenancy Branch