



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Oyster Property Management
Ltd. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL-4M, OLC, RP, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an Order cancelling a Four Month Notice to End the Tenancy for Renovation, dated February 23, 2021 ("Four Month Notice"); for an Order for the Landlord to Comply with the Act or tenancy agreement; for an Order for repairs to the unit, site or property; and to recover the \$100.00 cost of his Application filing fee.

An agent for the Landlord, H.T. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenant. The Tenant was provided with a copy of the Notice of a Dispute Resolution Hearing by the Residential Tenancy Branch ("RTB") on March 22, 2021; however, the Tenant did not attend the teleconference hearing scheduled for June 28, 2021 at 11:00 a.m. (Pacific Time). The teleconference phone line remained open for over 15 minutes and was monitored throughout this time. The only person to call into the hearing was the Agent, who indicated that he was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Agent.

I explained the hearing process to the Agent and gave him an opportunity to ask questions about the hearing process. During the hearing the Agent was given the opportunity to provide his evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the RTB Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Rule 7.1 states that the dispute resolution hearing will commence at the scheduled time

unless otherwise set by the arbitrator. The Respondent Landlord's Agent and I attended the hearing on time and were ready to proceed, and there was no evidence before me that the Parties had agreed to reschedule or adjourn the matter; accordingly, I commenced the hearing at 11:00 a.m. on June 28, 2021, as scheduled.

Rule 7.3 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. The teleconference line remained open for over 15 minutes; however, neither the Applicant nor an agent acting on his behalf attended to provide any evidence or testimony for my consideration. As a result, and pursuant to Rule 7.3, I **dismiss the Tenant's Application without leave to reapply**.

Having made this finding, I now turn to whether the Landlord is entitled to an order of possession. Section 55 of the Act states that if a tenant's application to cancel an eviction notice is dismissed, and I am satisfied that the eviction notice complies with the requirements under section 52, I must grant the landlord an order of possession.

However, no one submitted a copy of the Four Month Notice into evidence for my consideration. The Agent had a copy of this document and provided me with the details over the telephone, and he also said he would send me a copy. I advised him that all evidence had to be submitted prior to the hearing, as well as be served on the other party. Further, without a copy of this document in front of me, I cannot make a finding on whether the One Month Notice complies with section 52 of the Act.

In addition, RTB Policy Guideline #2B ("PG #2B") states:

When ending a tenancy under section 49(6) of the RTA or 42(1) of the MHPTA, a landlord must have all necessary permits and approvals that are required by law before they can give the tenant notice. If a notice is disputed by the tenant, the landlord is required to provide evidence of the required permits or approvals.

The permits or approvals in place at the time the Notice to End Tenancy is issued must cover an extent and nature of work that objectively requires vacancy of the rental unit. The onus is on the landlord to establish evidence that the planned work which requires ending the tenancy is allowed by all relevant statutes or policies at the time that the Notice to End Tenancy is issued.

When I asked the Agent about when he obtained the permits for this renovation, he said that his boss handled all of that. As such, there is no evidence before me as to what

permits the Landlord obtained, and whether they were obtained prior to issuing the Four Month Notice to the Tenant, and whether they are significant enough to require vacant possession of the unit during the renovations. Based on this, and the lack of a Four Month Notice before me, I find that I cannot determine if the Landlord has complied with the requirements under sections 49 and 52, and PG #2B.

As a result, I dismiss the Tenant's Application wholly without leave to reapply, as he did not attend the hearing to present the merits of his case. Further, given that no one submitted a copy of the Four Month Notice or details of permits acquired for this project, I find that the Landlord is not entitled to an order of possession, based on the Four Month Notice.

Conclusion

The Tenant is unsuccessful in his Application to cancel the Four Month Notice, because he did not attend the hearing to present the merits of his case; the Tenant's Application is cancelled wholly without leave to reapply.

However, the Landlord is not entitled to an order of possession in this situation, because there is insufficient evidence before me to determine if the Four Month Notice is compliant with sections 49 and 52 of the Act, and PG #2B. Further, there is insufficient evidence before me regarding the permits required for this renovation.

The Tenant provided his email address in the Application and the Landlord provided his in the hearing. The Decision has been sent to the Parties at these addresses.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: June 28, 2021

Residential Tenancy Branch