



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

On April 28, 2021 the tenant applied for dispute resolution for an order cancelling the One Month Notice to End Tenancy for Cause (the “One-Month Notice”) issued by the landlord. Additionally, they applied for reimbursement of the Application filing fee.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on August 31, 2021. The landlord attended the telephone conference call hearing; the tenant did not attend.

The tenant did not attend the hearing, although I left the teleconference hearing connection open until 11:12am to enable them to call in to this teleconference hearing scheduled for 11:00am. I confirmed the correct call-in numbers and participant codes were provided in the Notice of Hearing generated when the tenant applied. I also confirmed throughout the duration of the call that the tenant was not in attendance.

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* provides that if a party or their agent fails to attend the hearing, the arbitrator may conduct the hearing in the absence of that party or dismiss the application without leave to reapply. On this basis, I dismiss the tenant’s application for cancellation of the One-Month Notice and the filing fee, without leave to reapply.

Issue to be Decided

Is the landlord entitled to an Order of Possession pursuant to s. 55 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section.

The tenant provided a copy of the One-Month Notice, issued April 18, 2021. This document gave the move-out date of May 31, 2021. This listed the tenant's infraction of changing locks in the rental unit, affecting the landlord's access. The landlord served this document by sending it registered mail.

IN the hearing, the landlord advised the tenant moved out on approximately August 7, 2021. This was the result of a different notice to end tenancy issued in early August.

Analysis

The *Act* s. 47(1) states that a landlord may end a tenancy if any of the following reasons therein apply to the situation. Following this, s. 47(4) states that within 10 days of receiving a notice a tenant may dispute it by filing an Application for Dispute Resolution.

I am satisfied that when the landlord issued the One-Month Notice there were adequate grounds to do so. I am satisfied the landlord issued the One-Month Notice, and I find it was deemed received by the tenant on April 23, as per s. 90(a) of the *Act*. There is no evidence contrary to that of the landlord presented in the hearing. My finding here is also supported by the fact that the tenant applied to dispute the One-Month Notice on April 28, 2021.

By my application of Rule 7.3, the tenant's Application to cancel the One-Month Notice is dismissed. The landlord provided in the hearing that the tenancy already ended. On this basis, the tenant is not eligible for recovery of the Application filing fee.

Under s. 55 of the *Act*, when the tenant's application to cancel a notice to end tenancy is dismissed and I am satisfied the document complies with the requirements under s. 52 regarding form and content, I must grant the landlord an order of possession.

I find that the One-Month Notice complies with the requirements of form and content. The landlord is entitled to an order of possession on the effective date.

Conclusion

As the applicant tenants did not attend to present their Application, I dismiss their application for a cancellation of the One-Month Notice, without leave to reapply.

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenants. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: August 31, 2021

Residential Tenancy Branch