



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (application) by the tenants seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 1 Month Notice to End Tenancy for Cause dated May 3, 2021 (1 Month Notice) and to recover the cost of the filing fee.

The tenants were provided with a copy of the Notice of Dispute Resolution Hearing dated May 19, 2021 (Notice of Hearing). The tenants, however, did not attend the hearing set for this date, Tuesday, September 14, 2021 at 1:30 p.m. Pacific Standard Time. The phone line remained open for 14 minutes and was monitored throughout this time. The only parties to call into the hearing were the landlord and his spouse.

Preliminary and Procedural Matters

The landlord and their spouse were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The landlord and their spouse were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the landlord and their spouse were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The landlord and their spouse had no questions about my direction pursuant to RTB Rule 6.11.

In addition, the landlord confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them.

Analysis

Following the 10-minute waiting period, **the application of the tenants was dismissed without leave to reapply** pursuant to sections 7.1 and 7.3 of the RTB Rules, as the applicant failed to attend the hearing and the landlord did attend the hearing.

Section 55(1) of the Act applies and states:

Order of possession for the landlord

55(1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must grant to the landlord an order of possession of the rental unit if**

- (a) **the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and**
- (b) **the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**

[emphasis added]

I have reviewed the 1 Month Notice and amend what I find to be an obvious error on the effective vacancy date from June 30, 2030 to June 30, 2021 pursuant to sections 68(1)(a) and 68(1)(b) of the Act. In addition, I find the 1 Month Notice complies with section 52 of the Act. The corrected effective date on the 1 Month Notice is June 30, 2021. In addition, I accept the undisputed testimony of the landlord that one of the causes listed, which was "repeated late payment of rent" is valid because the landlord testified that the tenants paid the \$3,000.00 monthly rent late on January 4, 2021, April 2, 2021 and May 2, 2021, even though rent is due on the first day of each month.

Pursuant to section 55 of the Act, **I grant** the landlord an order of possession effective **September 30, 2021 at 1:00 p.m.** as the landlord confirmed that money for use and occupancy for September 2021 was paid by the tenants. The order of possession must be served on the tenants.

I find the tenancy ended on June 30, 2021, which was the corrected effective vacancy date listed on the 1 Month Notice.

I do not grant the tenants the filing fee as they failed to attend the hearing and the landlord did attend the hearing.

Conclusion

The tenants' application is dismissed without leave to reapply.

The tenancy ended on June 30, 2021. The landlord has been granted an order of possession effective September 30, 2021 at 1:00 p.m. This order must be served on the tenants and then may be filed in the Supreme Court of British Columbia and enforced as an order of that court.

The tenants are cautioned that they can be held liable for all costs associated with enforcement of the order of possession.

This decision will be emailed to both parties.

The order of possession will be emailed to the landlord only for service on the tenants.

The filing fee is not granted as noted above.

This decision is final and binding on the parties, except as 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: September 14, 2021

Residential Tenancy Branch