



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OLC, LRE

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants filed under the *Residential Tenancy Act* (the “*Act*”) to cancel a Two-Month Notice to End Tenancy for the Landlord’s Use of the Property (the “*Notice*”) issued May 24, 2021, for an order that the Landlord comply with the *Act*, and for an order to suspend or set conditions on the Landlord’s right to enter the rental unit. The matter was set for a conference call.

The Landlord and their counsel attended the conference call hearing; however, the Tenant did not. As the Tenant is the applicant in this hearing, I find that the Tenant had been duly notified of the Notice of Hearing in accordance with the *Act*.

The Landlord was affirmed to be truthful in their testimony and was provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Should the Notice issued May 24, 2021, be cancelled?
- If not, is the Landlord entitled to an order of possession?
- Should the Landlord be ordered to comply with the *Act*
- Is the Tenant entitled to suspend or set conditions on the Landlord's right to enter the rental unit?

Background and Evidence

The Landlord testified that they personally served the Tenant with the Notice to end tenancy on May 24, 2021. The reason checked off by the Landlord within the Notice was as follows:

- *the landlord or a close family member of the landlord intends in good faith to occupy the rental unit.*

The Landlord testified that it is their intent to move their parents into the rental unit and that they want an order of possession to enforce the Notice to end tenancy in accordance with the *Act*.

Analysis

Based on the above, the oral testimony and the documentary evidence, and on a balance of probabilities, I find as follows:

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. Rule 7.3 of the Rules of Procedure stipulates that an Arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Rules 7.1, 7.3 and 7.4 of the Rules of Procedure provide as follows:

7.1 Commencement of the dispute resolution hearing

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

7.3 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.

This hearing was scheduled to commence at 1:30 p.m. on October 1, 2021. I called into the teleconference at 1:30 p.m.; the line remained open while the phone system was monitored for ten minutes, and the only participant who called into the hearing during this time was the Landlord. Therefore, as the Tenant did not attend the hearing by 1:41 p.m. and the Landlord appeared and was ready to proceed, I dismissed the Tenant's application without leave to reapply.

During the hearing, the Landlord requested an order of possession to enforce their Notice to end tenancy. Section 55(1) of the *Act* 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.

I have reviewed the Notice to end the tenancy, and I find the Notice complies with section 52 of the *Act*.

Therefore, I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the *Act*. I grant the Landlord an **Order of Possession** effective **two days** after service on the Tenant. The Tenant must be served with this Order. 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.

Conclusion

The Tenant's application is dismissed without leave to reapply.

I grant an **Order of Possession** to the Landlord effective **two days** after service on the Tenant. The Tenant must be served with this Order. 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 1, 2021

Residential Tenancy Branch