



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") to cancel a One Month Notice to End Tenancy for Cause dated March 2, 2022 ("One Month Notice").

The Landlord, V.A., and an agent for the Landlord, A.S., ("Agent"), appeared at the teleconference hearing; however, no one attended on behalf of the Tenant. The Residential Tenancy Branch ("RTB") emailed the Tenant a copy of the Notice of a Dispute Resolution Hearing documents on March 17, 2022; however, the Tenant did not attend the teleconference hearing scheduled for June 28, 2022, at 9:30 a.m. (Pacific Time). The phone line remained open for over ten minutes and was monitored throughout this time. The only persons to call into the hearing were the Respondent Landlord and her Agent, who indicated that they were ready to proceed.

Rule 7.1 of the RTB Rules of Procedure ("Rules") states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. The Respondent Landlord 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 9:30 a.m. on June 28, 2022, 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 ten minutes; however, neither the Applicant nor an agent acting on her 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.**

The Landlord said that the Tenant told her she is moving out on June 30, 2022, which may be why she did not attend the hearing, pursuant to her Application for dispute resolution.

The onus to prove their case is on the person making the claim. Usually, this is the person who applies for dispute resolution. However, the onus of proof is sometimes on the other party. For instance, a landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy. As such, the burden of proof is on the Landlord for the Tenant's claim.

When a tenant applies to cancel a notice to end tenancy issued by a landlord, section 55 of the Act requires me to consider whether the landlord is entitled to an order of possession. This is the case if I dismiss the application and if the notice to end tenancy is compliant with section 52 of the Act, as to form and content.

In the hearing, the Landlord explained the basis for the One Month Notice, a copy of which the Tenant had submitted to the RTB. This One Month Notice was signed and dated March 2, 2022, and that it has the rental unit address. The One Month Notice was served to the Tenant by the Agent, who said he taped the One Month Notice to the rental unit door on March 2, 2022, when the Tenant would not answer the door. The One Month Notice has an effective vacancy date of April 5, 2022, which is automatically corrected by the Act to April 30, 2022. The One Month Notice was served on the grounds that the Tenant or a person permitted on the property by the Tenant has caused extraordinary damage to the unit or property.

I find that the One Month Notice is consistent with the Act, as to form and content, and I have dismissed the Tenant's Application pursuant to Rule 7.3, and as such, I find that the Landlord is eligible for an Order of Possession of the rental unit.

Accordingly, and pursuant to section 55 of the Act, I grant the Landlord an Order of Possession for the rental unit. Given that the effective vacancy date has passed, the **Order of Possession will be effective two days** after the Tenant is deemed served with the Order.

Conclusion

The Tenant is unsuccessful in her Application to cancel the One Month Notice. I dismiss the Tenant's Application, as she did not attend the hearing to respond to the Landlords' submissions, and pursuant to Rule 7.3 and the Act.

As I find that the One Month Notice is valid and effective as of April 30, 2022., I grant the Landlords an Order of Possession, effective **two days after service of this Order** on the Tenant. The Landlords are provided with this Order in the above terms. This

Order must be served on the Tenant by the Landlords and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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, 2022

Residential Tenancy Branch