



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Preliminary and Procedural Matters-

This telephone conference call hearing was convened as the result of the tenant's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act) for an order cancelling the One Month Notice to End Tenancy for Cause (1 Month Notice) issued by the landlord.

The hearing began as scheduled at 9:30 a.m., Pacific Time, on Monday, August 22, 2022, and the telephone system remained open and was monitored for 11 minutes. During this time, the applicant/tenant did not dial into the telephone conference call hearing; however, the landlord's agent (landlord) was present and ready to proceed with the hearing. The landlord was affirmed.

In speaking with the landlord, it was confirmed that the individual listed as landlord on the tenant's application was incorrect. The landlord listed on the written tenancy agreement shows a limited partnership company. The landlord also confirmed that the street address listed by the tenant was incorrect. I also find that the tenant failed to list the complete address for the rental unit, as the unit number was omitted. I find it necessary to amend the tenant's application by adding the name of the actual landlord and listing the proper rental unit address. Those changes are reflected on the cover page of this Decision.

During the hearing, the landlord confirmed they received the tenant's application, that they served their evidence to the tenant by registered mail on August 8, 2022, and that they require an order of possession of the rental unit as the tenant has not vacated.

While waiting for the tenant to appear, the landlord gave evidence in support of the landlord's Notice. The Notice, filed in evidence by both parties, was dated April 11,

2022, with an effective move out date of May 31, 2022. The tenant confirmed in his application receiving the 1 Month Notice on April 11, 2022, when it was attached to the door. The landlord said the tenant continues to smoke on the residential property in violation of the no smoking clause in the written tenancy agreement and the Rules and Regulations for the rental unit and residential property. The landlord testified that they have lost other tenants due to the tenant's continued smoking. The landlord submitted evidence of written warnings to the tenant, but he has ignored them.

Analysis and Conclusion

Rules 7.3 and 7.4 of the Rules of Procedure provides as follows:

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.

Accordingly, **in the absence of any evidence or submissions from the tenant, I order the application dismissed, without leave to reapply.**

Upon review, I find the Notice was on the RTB approved form with content meeting the statutory requirements under section 52 the Act.

Given the above, pursuant to section 55(1) of the Act, I **must** grant an order of possession of the rental unit to the landlord.

I therefore grant the landlord an order of possession of the rental unit effective and enforceable two (2) days after service on the tenant, as the effective move-out date has passed.

Should the tenant fail to vacate the rental unit pursuant to the terms of the order after being served, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

The tenant is **cautioned** that costs of such enforcement, **including bailiff fees**, are recoverable from the tenant.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: August 22, 2022

Residential Tenancy Branch