



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, RP, RR, PSF, LRE

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for the following claims:

- to cancel a One Month Notice to End Tenancy for Cause dated April 30, 2022;
- for an Order for the Landlord to Comply with the Act or tenancy agreement;
- for an Order for repairs to the unit or property, having contacted the landlord in writing to make repairs, but they have not been completed;
- for an Order to reduce the rent for repairs, services or facilities agreed upon, but not provided;
- for an order to provide services or facilities required by the tenancy agreement or law; and
- to suspend or restrict the Landlord's right to enter

The Landlords appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenant. The teleconference phone line remained open for over 10 minutes and was monitored throughout this time. The only persons to call into the hearing were the Landlords, who indicated that they were ready to proceed.

The Residential Tenancy Branch ("RTB") provided the Tenant with a copy of the Notice of a Dispute Resolution Hearing on May 19, 2022; however, the Tenant did not attend the teleconference hearing scheduled for September 16, 2022, at 11:00 a.m. (Pacific Time). The phone line remained open for 12 minutes and was monitored throughout this time.

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 Landlords 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 11:00 a.m. on September 16, 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 13 minutes, however, neither the Applicant nor an agent acting on his 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**.

However, when a tenant applies to cancel an eviction notice, section 55 of the Act requires me to consider whether the landlord is entitled to an order of possession. I must grant the landlord an order of possession if – first - I dismiss the tenant's application, and second, if the eviction notice is compliant with section 52 of the Act, as to form and content.

Preliminary and Procedural Matters

The Tenant provided the Parties' email addresses in the Application and the Landlords confirmed these addresses in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

Issue(s) to be Decided

- Are the Landlords entitled to an order of possession?

Background and Evidence

The Landlords explained that the periodic tenancy began on September 1, 2021, with a monthly rent of \$600.00, due on the first day of each month. The Landlord said that the Tenant did not pay the Landlord a security deposit, or a pet damage deposit.

The Landlords said that the One Month Notice was signed and dated April 30, 2022, it has the rental unit address, it was served in person on April 30, 2022, with an effective vacancy date of May 31, 2022. They said it was served on the grounds that the Tenant allowed an unreasonable number of occupants in the unit/site, and his disorganized belongings put the Landlord's property at significant risk of fire, which would affect other tenants, as well as property.

The Landlords said:

He is a wonderful person, but he has too many friends and is very giving. And he's got a problem not being able to organize his stuff. His girlfriend has been living there and is dysfunctional too, struggling with addiction. They are both trying hard. He's a good guy. He's getting used by all his friends, all night long. He's trying to contain himself and just have a few visitors, but they were still staying there until last week. Now he's outside. But he always had a couch surfer all winter. You can hide what's going on in there.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

I find that the One Month Notice is compliant with section 52 of the Act as to form and content. Accordingly, having dismissed the Tenant's Application wholly without leave to reapply, and finding the One Month Notice compliant with section 52, I find I must grant the Landlord an order of possession for the rental unit, pursuant to section 55 of the Act.

Pursuant to section 55 of the Act, the Landlord is granted an **Order of Possession** of the rental unit. This Order must be served on the Tenant by the Landlord and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

Conclusion

The Tenant is unsuccessful in his Application, as he failed to attend the hearing to present the merits of his claims. The Landlords attended the hearing and proved on a balance of probabilities the validity of the One Month Notice, which is compliant with section 52 as to form and content. The Tenant's Application is dismissed wholly without leave to reapply.

Pursuant to section 55 of the Act, I grant the Landlord an **Order of Possession effective two days after it is served** to the Tenant.

This Order must be served on the Tenant by the Landlord 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: September 16, 2022

Residential Tenancy Branch