



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAYFAIR PROPERTIES LTD (DBA: MARTELLO TOWER) and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC
 OPC, FFL

Introduction

This hearing was convened by way of conference call in response to cross Applications for Dispute Resolution filed by the parties.

The Tenant filed their application May 04, 2022 (the “Tenant’s Application”). The Tenant applied as follows:

- To dispute a One Month Notice to End Tenancy for Cause dated April 26, 2022 (the “Notice”)

The Landlord filed their application June 03, 2022 (the “Landlord’s Application”). The Landlord applied as follows:

- For an Order of Possession based on the Notice
- For reimbursement for the filing fee

History of Proceedings

The hearing for this matter originally occurred September 13, 2022, and a Decision was issued the same date. The Tenant did not appear at the original hearing.

The Tenant sought review of the original Decision based on being unable to attend the original hearing as well as new and relevant evidence. The Tenant was granted a review hearing which was set before me January 30, 2023. The Review Decision was sent to the Tenant September 23, 2022.

S.G. and M.B. appeared at the review hearing on January 30, 2023, for the Landlord. Nobody appeared at the review hearing for the Tenant. I waited 10 minutes at the outset of the hearing for the Tenant to call into the hearing; however, the Tenant did not do so. The review hearing proceeded for 19 minutes without the Tenant calling in.

Review Hearing Decision

Given it was the Tenant who was granted the review hearing and given the Tenant again did not appear at the review hearing on January 30, 2023, there is no basis before me to vary or set aside the original Decision issued September 13, 2022. The original Decision issued September 13, 2022, is confirmed.

The Landlord can now enforce the Order of Possession issued September 13, 2022. At the hearing, the Agents for the Landlord mentioned wanting to give the Tenant until mid-February to move out. It is up to the Landlord to choose when to serve the Tenant with the Order of Possession and when to enforce it in the BC Supreme Court if the Tenant does not comply with it. However, the Landlord is cautioned that waiting to enforce the Order of Possession for too long could result in it being unenforceable.

Request to Adjourn

I note that, on January 25, 2023, the Tenant submitted a written request to adjourn the review hearing on the basis that the Tenant had another court matter set for January 30, 2023, at 10:45 a.m. In the request, the Tenant states, "I'm meeting with my representative prior to the [court] hearing so there will be no time for me to attend the review hearing."

The Tenant cannot simply write in seeking an adjournment of a review hearing and have this considered. The Tenant was required to appear at the review hearing, or have an agent appear for them, seek an adjournment and have a decision made at the hearing. This is particularly so when the review hearing started at 9:30 a.m. and the Tenant did not have their court matter until 10:45 a.m.

I also note that it is unlikely I would have granted an adjournment because the 10:45 a.m. court matter started 15 minutes after the end of the review hearing, which was only set from 9:30 a.m. to 10:30 a.m. I acknowledge that the Tenant states that they had to meet with their representative prior to the 10:45 a.m. court hearing; however, there is no compelling evidence of this before me. Nor do I find this to be a

compelling reason to adjourn the review hearing because the Tenant has known about their court matter since at least January 25, 2023, which raises the question of why they did not meet with their representative in the five days leading up to the court matter.

In any event, the Tenant did not attend the review hearing to seek an adjournment and therefore the review hearing proceeded as scheduled.

Conclusion

The original Decision and Order of Possession issued September 13, 2022, are confirmed.

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: January 31, 2023

Residential Tenancy Branch