



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding THE CREST APTS. LTD and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction, 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 (Notice/1 Month Notice) issued by the landlord.

The hearing began as scheduled at 11:00 a.m., Pacific Time, on Friday, March 17, 2023, and the telephone system remained open and was monitored for 10 minutes. During this time, the applicant/tenant did not dial into the telephone conference call hearing; however, the landlord's agents (landlord) were present and ready to proceed with the hearing.

The landlords were affirmed and provided testimony.

During the hearing, the landlord confirmed they received the tenant's application for dispute resolution. They also confirmed they require an order of possession due to the tenant still residing in the rental unit.

While waiting for the tenant to appear, the landlord gave evidence in support of the landlord's Notice. The Notice, filed in evidence by the landlord, was dated October 31, 2022, with an effective move out date of November 30, 2022.

The landlord submitted they served the Notice to the tenant by attaching it to the tenant's door on October 31, 2022.

In their application, the tenant confirmed receiving the Notice on October 31, 2022.

Analysis

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 at the hearing, **I order the tenant's application dismissed, without leave to reapply.**

Upon review, I find the Notice was on the Residential Tenancy Branch (RTB) approved form and complies with the statutory requirements under section 52 the Act as to form and content.

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.

As a result, I order the tenancy ended on November 30, 2022, the effective date of the Notice served to the tenant.

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 and costs**, are recoverable from the tenant.

Conclusion

The tenant's application is dismissed **without leave to reapply**. The landlord has met the statutory requirements to end the tenancy and is granted an order of possession of the rental unit, effective two days after service on 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 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: March 17, 2023

Residential Tenancy Branch