



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding BC HOUSING MANAGEMENT
COMMISSION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, AAT

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for:

- cancellation of a One Month Notice to End Tenancy for Cause, pursuant to section 47; and
- an order to allow access for the tenant or their guests, under section 30.

I left the teleconference connection open until 11:12 A.M. to enable the tenant's representative to call into this teleconference hearing scheduled for 11:00 A.M. The tenant's representative did not attend the hearing. The landlord, represented by agents AP (the landlord) and SA, attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

At the outset of the hearing all the parties were clearly informed of the Rules of Procedure, including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11, which prohibits the recording of a dispute resolution hearing. All the parties confirmed they understood the Rules of Procedure and section 95(3) of the Act.

The landlord stated the tenant did not serve the notice of hearing dated February 06, 2023. The landlord received the notice of hearing from the Residential Tenancy Branch.

Based on the foregoing, I find the tenant did not serve the notice of hearing.

Rule of Procedure 3.1 states:

3.1 Documents that must be served with the Notice of Dispute Resolution
Proceeding Package

The applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 2.5 [Documents that must be submitted with an Application for Dispute Resolution].

(emphasis added)

The landlord said the tenant passed away on May 08, 2023. The landlord is not seeking an order of possession, as the tenant's representative informed him that he will give possession of the rental unit to the landlord on May 31, 2023. Based on the landlord's undisputed testimony, I dismiss the application without leave to reapply.

Conclusion

I dismiss the application without leave to reapply.

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: May 23, 2023

Residential Tenancy Branch