



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes

Tenant: CNR CNL

Landlord: OPL MNR FF

Introduction

This hearing was convened as a result of a cross-Application for Dispute Resolution. Both parties applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

Tenant's Application

The Respondent/Landlord attended the hearing. The hearing was by telephone conference and began promptly, as scheduled, at 9:30 a.m. Pacific Time on April 28, 2023, as per the Notice of a Dispute Resolution Hearing provided to the Tenant. The line remained open while the phone system was monitored for 10 minutes and the only participant who called into the hearing during this time was the Respondent/Landlord who was ready to proceed. The Landlord testified that the Tenant continues to occupy the rental unit.

After the ten minute waiting period, the Tenant's application was **dismissed, in full, without leave to reapply**.

I note that the Tenant applied to cancel the Landlord's 2-Month Notice (the Notice), in addition to another 10 Day Notice. However, the Tenant failed to attend the hearing and her application was dismissed. With respect to an order of possession, Section 55 of the *Act* applies and states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must grant to the landlord an order of possession of the rental unit if**

(a) **the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and**

(b) **the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**

[My emphasis added]

Pursuant to section 55 of the *Act*, and having reviewed the Notice (provided into evidence), which I find complies with section 52 of the *Act* [form and content of the Notice], I grant the landlord an order of possession effective **two (2) days** after service on the Tenant.

Further, I note the Landlord cross applied for an order of possession based off the same 2 Month Notice to End Tenancy for Landlord's Use (dated December 7, 2022), as well as a monetary order for unpaid rent. The Landlord stated that no rent is currently owed, so she wishes to withdraw that part of her application. However, she still needs the order of possession, pursuant to the 2 Month Notice.

Also, pursuant to section 72 of the *Act*, I award the Landlord the recovery of the filing fee she paid to obtain an order of possession based off the 2 Month Notice. The Landlord may retain \$100.00 from the Tenant's security deposit.

Conclusion

The Tenant's application has been dismissed in full, without leave to reapply as the Tenant failed to attend the hearing.

The Landlord has been granted an order of possession effective two (2) days after service on the Tenant. This order may be enforced in the Supreme Court of British Columbia.

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 3, 2023

Residential Tenancy Branch