



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding ATIRA PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on April 28, 2023, wherein the Tenant sought to cancel a 1 Month Notice to End Tenancy for Cause issued on April 19, 2023 (the "Notice").

The hearing of the Tenant's Application was scheduled for 11:00 a.m. on August 21, 2023. Only the Landlord's Agent, C.G., called into the hearing. The line remained open while the phone system was monitored for sixteen minutes and the only participant who called into the hearing during this time was the Landlord's Agent.

The Tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:16 a.m. 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's Agent and I were the only ones who had called into this teleconference.

The Landlord's Agent was given a full opportunity to be heard, to present affirmed testimony, and to make submissions on behalf of the Landlord.

Analysis and Conclusion

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Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* provide as follows:

Commencement of Hearing:

The hearing must commence at the scheduled time unless otherwise decided by the arbitrator.

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.

As the Tenant did not attend the hearing, and the Landlord's Agent appeared and was ready to proceed, I dismiss the Tenant's claim without leave to reapply. This includes dismissing his request that I cancel the Notice. As such, the tenancy shall end in accordance with the Notice.

Section 55 of the *Residential Tenancy Act* provides in part as follows:

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.

I have reviewed the Notice and confirm it complies with section 52 of the *Act*. Consequently, and as I have dismissed the Tenant's claim, the Landlord is entitled to an Order of Possession effective two days after service. This Order must be served on the Tenant and may be filed and enforced in the B.C. Supreme Court.

I also accept the Landlord's Agent's testimony and the evidence filed by the Landlord that the Landlord has established cause to end this tenancy. In this respect I find that the Tenant has significantly interfered with or unreasonably disturbed the Landlord by making racist comments to the Landlord's staff; has damaged the elevator; and, has engaged in illegal activity by taking items from another tenant's rental unit without their knowledge or consent. I accept the Landlord's evidence that the Tenant was warned about his behaviour through letters sent by the Landlord as early as October 2022 and that the Tenant has not corrected his behaviour.

Further, and while the Notice was issued four months ago, I am satisfied the Landlord's Agent informed the Tenant that his tenancy was not reinstated, and that the Landlord continued to want the tenancy to end.

This Decision is final and binding on the parties, except as 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: August 21, 2023

Residential Tenancy Branch