



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR, MNDC, PSF, RPP, OPT, AAT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 66;
- cancellation of the landlord's 10 Day Notice pursuant to section 46;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order requiring the landlord to return the tenant's personal property pursuant to section 65;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70; and
- an Order of Possession for the rental unit pursuant to section 54.

The Respondent (the landlord) appeared at the date and time set for the hearing of this matter. The Applicant did not, although I waited until 3:15 p.m. to enable him to connect with this teleconference hearing scheduled for 3:00 p.m.

The landlord testified that he posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on February 6, 2013 at 7:00 p.m. He entered into written evidence a copy of that Notice and a Proof of Service document signed by the landlord and a witness who watched him post the 10 Day Notice on the tenant's door. The landlord also submitted a copy of an earlier 10 Day Notice of December 28, 2012, seeking an end to this tenancy by January 10, 2013. I am satisfied that the 10 Day Notice of February 6, 2013, the notice disputed by the tenant, was served in accordance with the Act.

At the hearing, the landlord requested an Order of Possession if the tenant's application for cancellation of the 10 Day Notice issued on February 6, 2013 were dismissed.

Issues(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Section 55(1) of the *Act* reads as follows:

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 an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

The landlord testified that the tenant has not paid any of the \$1,300.00 in unpaid rent and \$111.47 in unpaid utilities cited as owing in the 10 Day Notice of February 6, 2013. He said that he has received no further payments from the tenant since he issued the 10 Day Notice of February 6, 2013.

Analysis

In the absence of an appearance at this hearing by the applicant and in the absence of any evidence or submissions from him, I order the tenant's application dismissed without liberty to reapply.

Based on my decision to dismiss the tenant's application for dispute resolution, I find that this tenancy ended on the effective date of the 10 Day Notice, February 19, 2013. I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be

given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

I dismiss the tenants' application for dispute resolution without leave to reapply. I grant an Order of Possession to the landlord effective **two days after service of the Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of 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: March 07, 2013

Residential Tenancy Branch

