



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding John Howard Society of Lower Mainland
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the tenant's application pursuant to section 46 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice).

The Respondents' representative (the landlord) appeared at the date and time set for the hearing of this matter. The Applicant did not, although I waited until 1:45 p.m. to enable him to connect with this teleconference hearing scheduled for 1:30 p.m.

The landlord testified that one of the landlord's representatives posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on October 1, 2013. Although the landlords had not entered into written evidence a copy of that 10 Day Notice, I allowed the landlord to fax a copy of that Notice to the Residential Tenancy Branch (the RTB) by 4:00 p.m. on the day of the hearing. The landlord subsequently faxed a copy of the 10 Day Notice to the RTB before 4:00 p.m. on November 14, 2013.

At the hearing, the landlord requested an Order of Possession if the tenant's application for cancellation of the 10 Day Notice were dismissed. She said another tenant had advised the landlord(s) that the tenant vacated the rental unit on or about November 1, 2013. The landlords have not taken possession of the rental unit, but understand that the tenant has left some of his belongings in the rental unit.

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 and Evidence

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 this periodic tenancy began on February 25, 2013. Monthly rent is set at \$409.00, payable in advance on the first of each month. She said that the 10 Day Notice identified \$409.00, the amount of the monthly rent as owing from October 2013. The landlord testified that the tenant continues to owe rent of \$409.00 for October 2013, and also failed to pay rent for November 2013.

Analysis

In the absence of any evidence or submissions from the applicants, I order the application dismissed without liberty to reapply.

Based on my decision to dismiss the tenants' application for dispute resolution, I find that this tenancy ended on the corrected effective date of the 10 Day Notice, October 13, 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 this Order** on the tenant(s). 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: November 15, 2013

Residential Tenancy Branch

