



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding QINWANG HOLDING LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

For the landlord: OPR O
For the tenant: MT CNR

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the *Residential Tenancy Act* (the “Act”).

The landlord applied for an order of possession for unpaid rent or utilities, and “other” although details of “other” were not provided in the landlord’s application.

The tenant applied to cancel a Notice to End Tenancy for Unpaid Rent or Utilities, and to allow the tenant more time to make an application to cancel a Notice to End Tenancy.

An agent for the landlord, MA, (the “agent”) attended the hearing. The hearing process was explained to the agent and an opportunity was given to ask questions about the hearing process. Thereafter the agent gave affirmed testimony, was provided the opportunity to present the landlord’s evidence orally and in documentary form prior to the hearing, and make submissions to me.

The tenant did not attend the hearing. The tenant was provided with a copy of the Notice of a Dispute Resolution Hearing after filing his application dated October 21, 2013. The tenant, however, did not attend the hearing set for today at 1:30 p.m. The telephone line remained open for thirteen minutes and was monitored throughout this time. The only party to call into the hearing was the landlord agent. Following the ten minute waiting period, **the application of the tenant was dismissed without leave to reapply.** The hearing continued with consideration of the landlord’s application.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

- Is the landlord entitled to an order of possession under the *Act*?

Background and Evidence

The agent stated that a month to month tenancy began on or about May 2013. Monthly rent in the amount \$650.00 was due on the first day of each month. The agent stated that a security deposit was not paid by the tenant.

The landlord stated that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice") dated October 10, 2013 was posted to the tenant's door on October 10, 2013. The 10 Day Notice was submitted in evidence by the landlord. The effective date on the 10 Day Notice is October 20, 2013. The tenant continues to occupy the rental unit.

During the hearing, once the tenant's application to cancel the 10 Day Notice was dismissed without leave to reapply, the agent verbally requested an order of possession.

Analysis

Based on the documentary evidence and undisputed testimony of the agent, and on the balance of probabilities, I find the following.

Section 55 of the *Act* 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** 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.

[emphasis added]

Given the above and taking into account the agent's oral request for an order of possession during the hearing, **I find** that the landlord is entitled to an order of possession **effective two (2) days after service on the tenant**, as the effective date of the 10 Day Notice was October 20, 2013 which has passed and the tenant continues to occupy the rental unit. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

Conclusion

The tenant's application was dismissed without leave to reapply.

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

This decision is final and binding on the parties, unless 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: November 29, 2013

Residential Tenancy Branch

