



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, ERP, RP, PSF, LRE, RR

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy; an order for repairs and emergency repairs; to provide services or facilities required by law; to suspend the landlord's right to access the rental unit; and a rent reduction.

The hearing was conducted via teleconference and was attended by the landlord.

During the hearing, the landlord verbally requested an order of possession should the tenant be unsuccessful in his Application.

Issue(s) to be Decided

The issue to be decided is the tenant is entitled to cancel a 10 Day Notice to End Tenancy for Unpaid Rent; to orders for repairs and emergency repairs; orders for the landlord to provide services or facilities required by law; an order to suspend the landlord's right to access the rental unit; and for a rent reduction, pursuant to Sections 29, 32, 33, 46, 55, 62, 67, 70, and 72 of the *Residential Tenancy Act (Act)*.

If the tenant is unsuccessful in his Application seeking to cancel the 10 Day Notice to End Tenancy for Unpaid Rent it must be decided if the landlord is entitled to an order of possession, pursuant to Section 55 of the *Act*.

Background and Evidence

The landlord testified that the tenancy began on June 15, 2013 as a month to month tenancy for a monthly rent of \$700.00 due on the 1st of each month with a security deposit of \$200.00 paid.

The landlord submits that the tenants failed to pay the full rent for the months of October 2013 and November 2013. As a result, the landlord issued and served a 10 Day Notice to End Tenancy for Unpaid Rent on December 6, 2013 with an effective date of December 16, 2013 citing the tenants had failed to pay rent in the amount of \$750.00.

Analysis

Section 46 of the *Act* allows a landlord to end a tenancy if rent is unpaid on any day after the day it is due by giving the tenant notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

Section 46(4) goes on to say that within 5 days of receiving such a notice the tenant may pay the overdue rent, in which case the notice has no effect or dispute the notice by making an application for dispute resolution.

And Section 46(5) states that if a tenant who receives a notice under Section 46 does not pay the rent or file an application for dispute resolution within 5 days the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

While the tenant had filed an Application for Dispute Resolution within 5 days of receiving the 10 Day Notice I find that failing to attend this hearing has the same effect of not filing an Application within 5 days of receipt of the 10 Day Notice. As such, I dismiss the tenant's Application in its entirety.

Section 55(1) of the *Act* states if a tenant makes an Application for Dispute Resolution to dispute a landlord's notice to end tenancy, the director must grant an order of possession to the landlord if, the landlord makes an oral request for an order of possession and the director dismisses the tenant's Application or upholds the landlord's notice.

Conclusion

Based on the above, I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: January 31, 2014

Residential Tenancy Branch

