



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SEAVIEW TERRACE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, OPR

Introduction

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

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent, dated January 3, 2015 ("10 Day Notice"), pursuant to section 46.

The respondent landlord, SC ("landlord"), and his agent, "BH" (collectively "landlords") appeared at the date and time set for the hearing of this matter. The applicant tenant did not appear at this hearing, although I waited until 10:00 a.m. to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m.

BH confirmed that he is the resident manager of the rental building. Both the landlord SC and BH confirmed that they had authority to speak on behalf of the landlord company named in this application, at this hearing.

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 January 3, 2015. BH confirmed that he witnessed this posting. The notice indicates an effective vacancy date of January 16, 2015. The landlords provided a copy of this notice after the hearing, at my request, as neither party provided the notice as evidence for this application. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlords' 10 Day Notice on January 6, 2015, three days after its posting.

The landlord testified that he received the tenant's application for dispute resolution hearing notice, by way of registered mail, a few days after January 8, 2015. In accordance with sections 89 and 90 of the *Act*, I find that the landlords were duly served with the tenant's application.

At the hearing, the landlords orally requested an Order of Possession if the tenant's application for cancellation of the 10 Day Notice was dismissed.

Issues to be Decided

Should the landlords' 10 Day Notice be cancelled? If not, are the landlords entitled to an Order of Possession?

Background

The landlord testified that this tenancy began on December 1, 2013. Monthly rent in the amount of \$900.00 is payable on the first day of each month. A security deposit of \$450.00 was paid by the tenant in December 2013 and the landlord continues to retain this deposit.

The 10 Day Notice indicates that rent in the amount of \$4,600.00 was due on January 1, 2015. The landlord provided a rent ledger with his written evidence. The landlord testified that rent of \$12,600.00 total was due from December 2013 to January 2015, based on 14 months of rent at \$900.00 per month. The landlord stated that the tenant had only paid \$8,000.00 towards this total amount. The landlord indicated that \$4,600.00 in rent was still unpaid by the tenant. He stated that the tenant has not made any rent payments since the landlords issued the 10 Day Notice.

Analysis

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.

In the absence of any evidence or submissions from the tenant, I order the tenant's application dismissed without leave 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, January 16, 2015. Accordingly, I find that the landlords are entitled to a 2 day Order of Possession.

Conclusion

The tenant's application to cancel the landlords' 10 Day Notice, dated January 3, 2015, is dismissed without leave to reapply.

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenant. Should the tenant or anyone on the premises 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: February 06, 2015

Residential Tenancy Branch

