



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR, FF

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“the Act”), I was designated to hear this matter. This hearing dealt with the tenants’ application 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 to End Tenancy for Unpaid Rent (“the 10 Day Notice”) pursuant to section 46; authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenants did not attend although the 9:30 am teleconference continued until 9:46 am. The landlord’s representative (“the landlord”) was present and provided sworn testimony that the tenants had vacated the rental unit. With respect to the tenants’ failure to attend this hearing, Rule 10.1 of the Rules of Procedure provides as follows:

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

In the absence of the tenants’ participation in this hearing to support their application and given the sworn evidence provided by the landlord, **I order the tenants’ application dismissed without liberty to reapply.**

Issue(s) to be Decided

As the tenant/applicant has failed to attend, his application is dismissed. Pursuant to section 55 of the *Act*, is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord gave evidence that this tenancy began on or about March 2014. The landlord testified that she continues to hold a security deposit that the tenant paid at the start of the tenancy. At this hearing, the landlord made an oral application for an Order of Possession for Cause, relying on documentary evidence, on the details portion of the application submitted by the tenant;

In the tenant's submission, he disputed the 10 Day Notice to End Tenancy on the basis that the landlord had accepted rent late in the past on several occasions. The landlord testified that, while he has been lenient with the tenant in the past, he can no longer afford to accept the rent after the date that it is due. He testified that it is causing him to have difficulty in meeting his own financial obligations.

The landlord confirmed in his testimony, as indicated in the 10 Day Notice, that the tenant did not pay the monthly rent due on June 1, 2015. He testified that the tenant has rental arrears as of the date of this hearing. He testified that the 10 Day Notice to End Tenancy was served on June 17, 2015 by posting the notice on the tenant's door. He testified that, as of the date of this hearing, the tenant has not paid his rent.

Analysis

Based on all of the testimony and evidence provided, I find the landlord has shown on a balance of probabilities that the tenant has failed to pay his rent in accordance with section 26 of the *Act*.

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 tenant made an application to dispute the landlord's notice to end tenancy. The tenant did not attend to support his application. The landlord made an oral request for an order of Possession. The landlord provided sufficient evidence to justify the notice to

end tenancy. As I have dismissed the tenant's application, **I find the landlord is, pursuant to section 55(1), entitled to an Order of Possession.**

Conclusion

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: August 21, 2015

Residential Tenancy Branch

