



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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DECISION

Dispute Codes: CNR

Introduction

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

While the landlords' agent, SA ('landlords'), attended the hearing by way of conference call, the tenants did not. I waited until 11:14 a.m. to enable the tenants to participate in this scheduled hearing for 11:00 a.m. The landlords were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

SA confirmed that the landlords were served with the tenants' Application for Dispute Resolution ('Application'). In accordance with section 89 of the *Act*, I find the landlords duly served with the tenants' Application.

SA provided undisputed testimony that the tenants were served with the 10 Day Notice, with a corrected effective date of February 29, 2017, on February 16, 2017 by posting the Notice on the tenants' door. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice on February 19, 2017, three days after posting.

Issue(s) to be Decided

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

Background and Evidence

SA provided the following sworn, undisputed testimony as the tenants did not attend this hearing. This month-to-month tenancy began on December 1, 2015 with monthly rent set at \$2,600.00, payable on the first of each month. The landlords collected, and still hold, a security deposit of \$1,300.00. The tenants continue to reside in the rental unit.

The landlords issued the 10 Day Notice on February 16, 2017 to the tenants for failing to pay outstanding rent in the amount of \$8,500.00 by February 5, 2017. The tenants have not paid any rent since the 10 Day Notice was issued. The tenants filed for dispute resolution on February 10, 2017, but did not attend this scheduled hearing.

Analysis

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 to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

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

I find that the 10 Day Notice to be valid, and complies with section 52 of the *Act*. Based on my decision to dismiss the tenants' application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that this tenancy ended on the corrected effective date of the 10 Day Notice, February 29, 2017. I find that the landlords are entitled to a 2 day Order of Possession. The landlords will be given a formal Order of Possession which must be served on the tenants. If the tenants do 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 without leave to reapply.

I grant an Order of Possession to the landlords effective **two (2) days after service on the tenants**. Should the tenants 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: March 21, 2017

Residential Tenancy Branch