



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an application by the tenants filed February 6, 2017 under the *Residential Tenancy Act* (the “Act”). The tenants applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 2, 2017 (the “10 Day Notice”).

An agent for the landlord attended the hearing and gave affirmed testimony. The tenants did not attend at the hearing of their application.

Issues

Are the tenants entitled to an order cancelling the 10 Day Notice?

If not, is the landlord entitled to an order of possession?

Background and Evidence

The 10 Day Notice is dated February 2, 2017. The agent for the landlord testified that he and the building manager handed it personally to one of the two tenants occupying the rental unit on that same day.

No tenancy agreement was in evidence. Neither party submitted any documentary evidence with the exception of the 10 Day Notice. The landlord’s agent testified that this tenancy began on or around September 1, 2016 with a monthly rent of \$525.00 due on the first of each month. A security deposit of \$262.50 was paid at the beginning of the tenancy.

The landlord’s agent offered additional undisputed and affirmed testimony concerning the rental arrears. He testified that a portion of the rent is paid directly by the Ministry to the landlord, and that the tenants pay another portion directly. Over the last three months the tenants have been “short” \$75.00 in the portion that they pay directly. The landlord’s agent also said that the tenants have not yet paid the amount outstanding.

Analysis

Based on the testimony of the landlord's agent as set out above, I find that the tenants were served with the 10 Day Notice on February 2, 2017.

The 10 Day Notice indicates an outstanding amount of \$150.00 as of the date of the notice. The landlord's agent provided affirmed testimony that this amount, along with another \$75.00 for March, remains outstanding. As the tenants did not attend at the hearing, this evidence is uncontradicted. Accordingly, I find that the tenants have not paid the amount outstanding, as set out on the 10 Day Notice, in full.

Section 46(5) of the Act provides that if a tenant has not paid outstanding rent in full or applied to dispute a 10 Day Notice within five days of receipt of the 10 Day Notice, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice, and must vacate the rental unit by that date.

Although these tenants have applied to dispute the 10 Day Notice within the allotted time, they have not attended at the hearing and have therefore not offered any reason to cancel the 10 Day Notice. Accordingly, I uphold the 10 Day Notice and dismiss the tenants' application to cancel it, without leave to the tenants to reapply.

This tenancy therefore ended on February 12, 2017, the effective date on the 10 Day Notice. The tenants and anyone on the premises were required to vacate the premises by that date. As this has not occurred, I find that the landlord is entitled to a two (2) day order of possession, pursuant to section 55 of the Act. I find that the landlord's 10 Day Notice complies with section 52 of the Act.

Conclusion

I grant an order of possession to the landlord effective **two (2) days after service on the tenants**. Should the tenants or anyone on the premises fail to comply with this order, it may be filed and enforced as an order of 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: March 07, 2017

Residential Tenancy Branch