



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPC CNR MNR ERP RP FF

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

Landlord:

- an order of possession for cause pursuant to section 55;

Tenant:

- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing. The parties acknowledged service of the respective applications for dispute resolution including all evidence before me.

Preliminary Issue – Scope of Application

Residential Tenancy Branch Rules of Procedure, Rule 2.3 states that, if, in the course of the dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply.

Aside from the issues related to a Notice to End Tenancy, I am exercising my discretion to dismiss the remainder of the issues identified in the tenants’ application with leave to

reapply as these matters are not related. Leave to reapply is not an extension of any applicable time limit.

Issues

Is the landlord entitled to an order of possession for cause?

Should the landlord's 10 Day Notice be cancelled? If not, Is the landlord entitled to an order of possession for unpaid rent?

Is the tenant entitled to recover the filing fee?

Background and Evidence

The tenancy began in September 2015 with a monthly rent of \$750.00.

The landlord testified that on May 18, 2017 the tenant was personally served with the 1 Month Notice to End Tenancy for Cause (the 1 Month Notice).

The tenant acknowledged receipt of the 1 Month Notice. Although the tenant filed an application to dispute the 10 Day Notice, the tenant did not file an application to dispute the 1 Month Notice. The tenant even acknowledged calling into the Residential Tenancy Branch and being provided advice on the requirement to file an amendment to his application if he wished to dispute the 1 Month Notice.

Analysis

I am satisfied that the tenant was personally served with the 1 Month Notice on May 18, 2017 pursuant to section 88 of the Act.

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving a notice to end tenancy. Under this section, the tenant may make a dispute application within ten days of receiving the 1 Month Notice. If the tenant does not make an application for dispute within ten days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the 1 Month Notice, June 30, 2017.

I find that the 1 Month Notice complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

As the landlord has been granted an order of possession based on the 1 Month Notice issued on May 18, 2017, I find it not necessary to consider the merits of the tenant's application to cancel the 10 Day Notice.

The tenant's application to cancel the 10 Day Notice is dismissed.

As the tenant was not successful in his application, I find that the tenant is entitled to recover the \$100.00 filing fee paid for his application.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant 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: June 29, 2017

Residential Tenancy Branch