



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFICA HOUSING
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR MT RP

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution (the "Application") under the *Residential Tenancy Act* (the "Act") seeking to cancel a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated June 7, 2017 (the "10 Day Notice") for more time to make an application to cancel a notice to end tenancy, and for a repair order.

Three agents for the named landlord company (the "agents") appeared at the teleconference hearing. The hearing was held by telephone conference call and began promptly at 1:30 p.m., Pacific Time, on this date, August 15, 2017. The line remained open while the phone system was monitored for 14 minutes and the only participants who called into the hearing during this time were the agents for the respondent named landlord company. As the applicant tenants did not attend the hearing and after the ten minute waiting period at 1:40 p.m. Pacific Time, the tenants' claim was **dismissed without leave to reapply**. As the tenants did not attend the hearing, I consider the 10 Day Notice to be undisputed. The agents stated that the 10 Day Notice was served on the tenants by posting to the tenants' door on June 8, 2017 and had an effective vacancy date of June 26, 2017.

Preliminary and Procedural Matter

At the outset of the hearing, agent S.H. confirmed that she was named in error as the respondent and that the landlord company name should have been named in the tenants' application. I agree with the agent S.H. As a result and pursuant to section 64(3) of the *Act* I amend the tenants' application to remove the agent name and replace it with the company name of the landlord.

Background and Evidence

The agents confirmed that the tenants provided a cheque dated June 9, 2017 which was returned as “NSF” (non-sufficient funds) and that rent for July and August have also not been paid by the tenants and that the tenants continue to occupy the rental unit.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

The agents testified that the tenants continue to occupy the rental unit. Section 55 of the *Act* states:

Order of possession for the landlord

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.

[My emphasis added]

Given the above and after reviewing a copy of the 10 Day Notice, which had an effective vacancy date of June 26, 2017 and which I find complies with section 52 of the *Act*, and pursuant to section 55 of the *Act*, I must grant an order of possession. Therefore, I grant the landlord an order of possession effective **two (2) days** after service on the tenants. I find the tenancy ended on June 26, 2017 which was the effective vacancy date listed on the 10 Day Notice.

Conclusion

The tenants' application is dismissed as the tenants failed to attend the hearing as scheduled.

I find the tenancy ended on June 26, 2017 which is the effective vacancy date listed on the 10 Day Notice.

The landlord is granted an order of possession effective two (2) days after service on the tenants. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, except as 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: August 15, 2017

Residential Tenancy Branch