



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;

The tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord and the landlord's agent, M.C. (the agent), attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The agent stated that he would be speaking on behalf of the landlord at this hearing.

The landlord acknowledged receipt of the Tenant's Application for Dispute Resolution (the Application). In accordance with section 89 of the *Act*, I find that the landlord was duly served with the Application.

The landlord gave evidence that the landlord's evidentiary package was sent by Canada Post's Xpress Post service to the tenant on August 30, 2017. The landlord provided a copy of the Canada Post Tracking Number to confirm this mailing. In accordance with sections 88 and 90 of the *Act*, I find the tenant was deemed served with these documents on September 05, 2017.

The landlord entered into evidence a signed and witnessed Proof of Service Document attesting to the fact that a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) was posted to the tenant's door at 6:57 p.m. on August 04, 2017. In accordance with sections 88 and 90 of the *Act* I find that the 10 Day Notice, identifying \$1,100.00 in unpaid rent and \$93.38 in unpaid utilities owing for this tenancy, was deemed served to the tenant on August 07, 2017.

Issues(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background

Rule 10.1 of the Rules of Procedure provides as follows:

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

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'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.*

The agent testified that the tenant continues to owe rent of \$1,100.00 for August 2017 and utilities in the amount of \$98.38. The agent said that the tenant has not paid anything further towards the tenancy since the 10 Day Notice was issued to the tenant.

Analysis

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

Based on my decision to dismiss the tenant's application for dispute resolution and in accordance with section 55(1) of the *Act*, I find that this tenancy ended on the effective date of the 10 Day Notice, August 18, 2017. In this case, the tenant and anyone on the

premises were required to vacate the premises by August 18, 2017. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession.

Conclusion

I dismiss the tenants' application for dispute resolution without leave to reapply.

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant or any occupant 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: September 18, 2017

Residential Tenancy Branch