



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, RPP

### 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 66; and
- an order to allow the tenants to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, and to call witnesses. The tenant GG (the "tenant") primarily spoke for both co-tenants.

As both parties were in attendance I confirmed that there were no issues with service of the landlord's 10 Day Notice, the tenant's application for dispute resolution or either party's evidentiary materials. The parties confirmed receipt of one another's materials. In accordance with sections 88 and 89 of the *Act*, I find that the parties were duly served with copies of the landlord's 10 Day Notice, the tenant's application and their respective evidence.

### Issue(s) to be Decided

Should the 10 Day Notice be cancelled? If not is the landlord entitled to an Order of Possession for unpaid rent?

Are the tenants entitled to a rent reduction for repairs, services or facilities agreed upon but not provided by the landlord?

### Background and Evidence

The monthly rent for this periodic tenancy is \$1,100.00 payable on the first of each month. The landlord testified that the tenancy was in arrears by \$1,300.00 on July 22, 2017 when the 10 Day Notice was issued. The landlord said that the tenant did not make payment against the rental arrears within 5 days. The landlord said that the tenant has failed to pay the rent for the months of August, September, and October, 2017. The landlord said that the tenant has made three small payments towards the arrears that was accepted for use and occupancy only. The landlord calculates that the

total amount of rental arrears as of the date of the hearing, October 13, 2017 is \$3,050.00.

The tenant agrees with the calculation of the arrears though he believes that a portion of the amount claimed is for interest rate. The tenant testified that he has not made full payment of the rent. The tenant said that there are various issues with the rental unit which the landlord has not repaired. The tenant said that the stove, kitchen sink, shower and bathroom tiles all need work. The tenant said that he has informed the landlord of the need for repairs in the past but no work has been done.

The landlord testified that the tenant has not raised the issue of repairs before and he is not aware of work that needs to be done.

### Analysis

In accordance with subsection 46(4) of the *Act*, the tenant must either pay the overdue rent or file an application for dispute resolution within five days of receiving the 10 Day Notice. In this case, the tenant received the 10 Day Notice on July 23, 2017, and filed a notice of dispute application on July 28, 2017 to comply with the 5 day limit under the *Act*.

Where a tenant applies to dispute a 10 Day Notice, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the 10 Day Notice is based. The landlord stated that there was a rent arrear of \$1,300.00 when the 10 Day Notice was issued. The tenant confirmed that he has not paid the full amount of rent. The tenant testified that he agrees with the landlord's calculation that the total arrears is \$3,050.00 as at the date of the hearing.

I find that there is insufficient evidence in support of the tenants' application to reduce rent. The tenant gave vague testimony and general complaints. There was no written evidence submitted of the deficiencies and the landlord disputed the tenant's testimony that repairs were requested in the past. I do not find that there is sufficient evidence to establish that there is a basis for the rent to be reduced.

I accept the parties' evidence that the rental amount has not been paid in full and that the tenant failed to pay the full rent due within the 5 days of service of the 10 Day Notice. Accordingly, I dismiss the tenants' application and find that the tenancy ended on the corrected effective date of the 10 Day Notice, August 2, 2017.

Section 55 of the *Act* provides that:

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.

I have dismissed the tenant's application, and I find that the landlord's 10 Day Notice complies with the form and content requirements of section 52. While the landlord has used an older version of the 10 Day Notice form pursuant to section 10(2) of the Act, as the use of the older form does not affect the substance or mislead the recipient, I find that the 10 Day Notice is valid. The 10 Day Notice is signed and dated by the landlord, provides the address of the rental unit, the effective date of the notice, and the grounds for the tenancy to end, therefore I find that the landlord is entitled to an Order of Possession pursuant to section 55. As the effective dates of the notice has passed, I issue an Order of Possession effective two (2) days after service.

#### Conclusion

The tenant's application is dismissed.

I grant an Order of Possession to the landlord effective **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: October 13, 2017

---

Residential Tenancy Branch