



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FFT

This hearing was convened in response to the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

The tenant requested:

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

Issue(s) to be Decided

Is the tenant entitled to have the notice to end tenancy cancelled? If not, are the landlords entitled to an Order of Possession based on the 10 Day Notice?

Is the tenant entitled to recover the filing fee for this application?

Background and Evidence

The landlords gave the following testimony regarding the following facts. This fixed-term tenancy began on November 6, 2017 and was to run until April 30, 2018, with monthly rent set at \$6000.00, payable on the first of each month. The landlords testified that the tenant did not pay a deposit. The landlords testified that the tenant provided a cheque for the first months' rent, but that cheque "bounced". The landlord testified a second cheque was provided by the tenant and that cheque also "bounced". The landlord testified that no rent has been paid whatsoever. The landlords issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on November 28, 2017. The landlord requests an order of possession.

The tenant gave the following testimony. The tenant testified that he was having some banking difficulties providing the funds as he has just moved to the Vancouver area. The tenant testified that he does not dispute that the first two cheques bounced. The tenant testified that he made an international wire transfer of the funds on December 1, 2017. The tenant testified that he will be able to provide proof of that transfer in the next week or so.

Analysis

I accept the landlord's testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant submits that given time, he would be able to provide proof of payment; however the tenant has had 32 days since filing his application to provide some documentation to reflect that, but has not done that. The tenant has not provided sufficient evidence or justification to cancel the notice. In the tenants own testimony he conceded that his submission lacked weight. Based on the above facts , I am satisfied that the tenant has not paid any rent or the deposit and I further find that the landlord is entitled to an order of possession pursuant to Section 55 of the Act. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession. The tenants' application is dismissed in its entirety without leave to reapply.

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: January 08, 2018

Residential Tenancy Branch