



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNR ERP RP

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on January 25, 2018 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated February 2, 2018 (the "10 Day Notice");
- an order that the Landlord make emergency repairs for health or safety reasons; and
- an order that the Landlord make repairs to the unit, site, or property.

The Tenant attended the hearing on his own behalf. The Landlord attended the hearing on his own behalf. Both the Tenant and the Landlord provided a solemn affirmation at the beginning of the hearing.

The Landlord acknowledged receipt of the Tenant's Application package, a documentary evidence package, and an Amendment to an Application for Dispute Resolution, received at the Residential Tenancy Branch on February 8, 2018 (the "Amendment"). Pursuant to section 71 of the *Act*, I find the Landlord was sufficiently served with these documents for the purposes of the *Act*. The Landlord did not submit documentary evidence in response to the Application.

During the hearing, no issues were raised about service or receipt of the above documents. The parties were provided with the opportunity to present their evidence orally and in written and documentary form, and make submissions. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Tenant entitled to an order cancelling the 10 Day Notice?
2. Is the Tenant entitled to an order that the Landlord make emergency repairs for health or safety reasons?
3. Is the Tenant entitled to an order that the Landlord make repairs to the unit, site, or property?

Background and Evidence

The parties agreed the tenancy began at the end of July 2017. Currently, rent in the amount of \$695.00 per months is due on the first day of each month. Due to an injury, the Tenant's rent is paid directly to the Landlord.

The Landlord testified that rent was not paid when due in December 2017, and in January and February 2018. Accordingly, the Landlord issued the 10 Day Notice, which was received by the Tenant on February 2, 2018. Further, the Landlord testified that the Tenant paid rent for March 2018, but that \$695.00 remains outstanding.

In reply, the Tenant acknowledged there were issues regarding the payment of his rent. He testified that his former roommate was hospitalized in December 2017 and that he was advised in January 2018 that his former roommate would not be returning. In addition, the Tenant testified that he did not receive notice that rent had ben unpaid because he does not make the payments himself. The Tenant also testified that he went to speak with a "ministry" worker, who told him to get the Landlord to attend the office to make arrangements for the payment of rent.

Analysis

Based on the oral and documentary evidence submitted by the parties, and on a balance of probabilities, I find:

Section 26 of the *Act* confirms a tenant must pay rent when due, whether or not the landlord complies with the *Act*, the regulations or the tenancy agreement, unless the tenant has a right under the *Act* to deduct all or a portion of the rent. Section 46 of the *Act* permits a landlord to issue a notice to end a tenancy if rent remains unpaid on any day after the day it is due.

The Landlord testified that rent has not been paid when due and that \$695.00 remains outstanding. Despite having received the 10 Day Notice on February 2, 2018, the Tenant testified he did not have notice that rent had not been paid. In addition, the Tenant appeared to place responsibility for the unpaid rent on his former roommate, the "ministry", or the Landlord. However, I note the *Act* places responsibility on tenants to pay rent when due.

I find that rent was not paid when due and that \$695.00 remains outstanding. Accordingly, the Tenant's Application to cancel the 10 Day Notice is dismissed, without leave to reapply. When a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I grant an order of possession to a landlord. Having reviewed the 10 Day Notice, I find it complied with section 52 of the *Act*. Accordingly, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

The tenancy is ending. Accordingly, it has not been necessary for me to consider the Tenant's requests for orders that the Landlord make emergency repairs for health or safety reasons, or otherwise make repairs to the unit, site, or property. These aspects of the Tenant's Application are dismissed, without leave to reapply.

Conclusion

The Tenant's Application is dismissed, without leave to reapply. By operation of section 55 of the *Act*, I grant the Landlord an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in 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: March 9, 2018

Residential Tenancy Branch