



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNRL, OPL, OPR, CNR, DRI, OLC

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlords requested:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

The tenant requested:

- cancellation of the landlords’ 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- to dispute a rent increase pursuant to section 43; and
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62.

While the landlords’ agent attended the hearing by way of conference call, the tenant did not. The landlords’ agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or

without leave to re-apply. As the tenants chose not to participate in the teleconference, I dismiss their application in its entirety without leave to reapply.

The landlords' agent gave sworn testimony that on January 29, 2018 copies of the Application for Dispute Resolution hearing package ('Application') and evidence were sent to the tenants by registered mail In accordance with section 89 of the *Act*, I find that the tenants were deemed served with copies of the landlords' application and evidence five days later pursuant to section 90 of the *Act*.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession based on the 10 Day Notice?

Are the landlords entitled to a monetary award for unpaid rent or money owed under the tenancy agreement, regulation, or *Act*?

Are the landlords entitled to recover the filing fee for this application?

Background and Evidence

The landlords' agent gave undisputed testimony regarding the following facts. This tenancy began on July 1, 2017, with monthly rent set at \$1300.00, payable on the first of each month. The landlords' agent issued the 10 Day Notice on January 16, 2018 personally to the tenant. The agent testified that the tenant's did not pay rent for January 2018 to March 2018. The agent testified that although the tenants did not pay for three months, they were also given a two month notice to end tenancy and feel it would only be fair to give them one month's credit and only seek two months' rent of \$2600.00 plus the \$100.00 filing fee and the order of possession.

Analysis

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 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.

In the absence of any evidence or submissions from the tenant, I order the tenant's application dismissed without liberty to reapply. I find that the 10 Day Notice complies with section 52 of the *Act*.

Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that this tenancy is ended and I find that the landlords are entitled to a 2 day Order of Possession. The landlords will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

The landlords provided undisputed evidence that the tenants still owe \$2600.00 in rent. Therefore, I find that the landlords are entitled to \$2600.00 in arrears for the above period. I find that the landlords are entitled to recovery the \$100.00 filing fee from the tenant.

Conclusion

As the tenant did not attend this hearing, their entire application is dismissed without leave to reapply.

I grant an Order of Possession to the landlords effective **two (2) days after service on the tenants**. Should the tenant 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.

I issue a \$2700.00 Monetary Order in favour of the landlords.

The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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 26, 2018

Residential Tenancy Branch