



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SOUTHVIEW GARDENS LIMITED PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

Introduction

On February 9, 2018, the Tenants filed an Application for Dispute Resolution under the Residential Tenancy Act ("the Act") to cancel a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities. The matter was set for a conference call.

The Landlord attended the conference call hearing; however, the Tenants did not. As the Tenants are the applicants in this hearing, I find that the Tenants had been duly notified of the Notice of Hearing in accordance with the Act.

The Landlord was affirmed to be truthful in her testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing. 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

Issue(s) to be Decided

- Should the Landlord's 10-Day Notice to end Tenancy for Unpaid Rent or Utilities be cancelled?
- If not, is the Landlord entitled to an Order of Possession.

Background and Evidence

The Landlord testified that the tenancy began on September 1, 2016. Rent in the amount of \$1,350.00 is to be paid by the first day of each month. At the out set of the tenancy the Tenants paid the Landlord a \$675.00 security deposit. A rental increase was issued, increasing the monthly rent to \$1,399.00 effective September 1, 2017.

The Landlord testified that they served the 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice) to the Tenants on February 5, 2018 in person. The Landlord also testified that the Tenants have not paid the outstanding amount of rent despite their application to dispute the Notice. The landlord requested the Order of Possession effective April 30, 2018.

As the Tenants did not provide a copy of the Notice into evidence, I allowed the Landlord to provide a copy of the Notice after the hearing concluded. A signed copy of the Notice provided by the Landlord noted that \$1,370.00 in rent was outstanding at the time the Notice was served, and had an effective date of February 15, 2018, to end the tenancy.

Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant received the 10-Day notice on February 5, 2018 and did apply to dispute the Notice within the legislated timeline. This matter was set for hearing by telephone conference call at 10:30 A.M on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during was the Landlord.

Rule 7.1 and 7.3 of the Rules of Procedure provides as follows:

7.1 The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.3 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.

Therefore, as the Tenants did not attend the hearing by 10:40 A.M, I dismiss the tenant's application without leave to reapply.

Section 55(1) of the Act states:

Order of possession for the landlord

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.

I have reviewed the Notice to end tenancy, I find the Notice to end tenancy complies with section 52 of the Act.

As I have dismissed the tenant's' application, pursuant to section 55 of the Act I must grant the landlord an order of possession to the rental unit. During the course of the hearing the Agent for the Landlord explained that they were giving the Tenants an opportunity to pay outstanding rents. The Agent for the Landlords requested that April 30, 2018 as the date the order of possession would become effective.

Therefore, I find that the landlord is entitled to an order of possession effective April 30, 2018 at 1:00 P.M.

Conclusion

The Tenants' application is dismissed, without leave to reapply.

I grant an Order of Possession to the Landlord effective April 30, 2018. The Tenants must be served with this Order. Should the tenants 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: April 16, 2018

Residential Tenancy Branch