



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR ERP RR AAT PSF OLC FFT

Introduction

This hearing dealt with the tenants' 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 46;
- an order to the landlord to make repairs to the rental unit pursuant to section 33; and
- an order to allow the tenants to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to allow access to or from the rental unit or site for the tenants or the tenants' guests pursuant to section 70;
- and an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

While the landlord attended the hearing by way of conference call, the tenants did not. I waited until 11:10 a.m. to enable the tenants to participate in this scheduled hearing for 11:00 a.m. The landlord 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.

The landlord provided undisputed testimony that the tenants were personally served with the 10 Day Notice, with an effective date of May 5, 2018, on April 25, 2018. In accordance with section 88 of the *Act*, I find that the tenants were duly served with the 10 Day Notice on April 25, 2018.

The landlord acknowledged receipt of the tenants' application and evidence on or about May 12, 2018. I find that the landlord was duly served with the tenants' application in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Are the tenants entitled to an order for the landlord to comply with the *Act*?

Are the tenants entitled to a reduction in rent for services not provided?

Are the tenants entitled to an order for the landlord to perform repairs?

Are the tenants entitled to an order allowing them access to the rental unit or site?

Are the tenants entitled to an order for the landlord to provide services as required by the *Act* or tenancy agreement?

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

Background and Evidence

The landlord gave undisputed testimony regarding the following facts. This month-to-month tenancy began on November 20, 2017 with monthly rent set at \$1,600.00, payable on the 31st of each month. The landlord collected, and still holds, a security deposit and pet damage deposit of \$800.00 each deposit. The tenants continue to reside in the rental unit.

The landlord issued the 10 Day Notice on April 25, 2018 to the tenants, indicating an effective move-out date of May 5, 2018. A copy of the 10 Day Notice was included in the tenants' evidence. The landlord is seeking an Order of Possession as the tenants have not paid the outstanding utilities for this tenancy.

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 submissions from the tenants in this hearing, I order the tenants' entire 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 tenants' application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that this tenancy ended on the effective date of the 10 Day Notice, May 5, 2018. I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenants. If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

I dismiss the tenants' entire application without leave to reapply.

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant(s)**. Should the tenant(s) 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: June 7, 2018

Residential Tenancy Branch