



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") seeking to cancel a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated August 22, 2018 ("10 Day Notice").

The daughter of the landlord ("daughter") and agent for the landlord SA ("agent") attended the teleconference hearing. The hearing was held by telephone conference call and began promptly at 11:00 a.m., Pacific Time, on this date, October 30, 2018. The line remained open while the phone system was monitored for 11 minutes and the only participants who called into the hearing during this time were the daughter and the agent of the landlord. As the applicant tenant did not attend the hearing and after the ten minute waiting period at 11:10 a.m. Pacific Time, the tenant's application was **dismissed without leave to reapply**. As the tenant did not attend the hearing, I consider the 10 Day Notice to be undisputed. The daughter testified stated that the 10 Day Notice was served on the tenant by registered mail on August 22, 2018. The registered mail tracking number has been included on the cover page of this decision for ease of reference. According to the online registered mail tracking website information the registered mail package was signed for and accepted on August 24, 2018. As a result, I find the tenant was served with the 10 Day Notice as of August 24, 2018.

Preliminary and Procedural Matter

The daughter and agent provided their email addresses at the outset of the hearing which were confirmed by the undersigned arbitrator. The daughter and agent were advised that the decision would be emailed to them and that any applicable orders

would be emailed to them. The tenant will be sent the decision by regular mail as the tenant did not provide an email address in their application and did not attend the teleconference hearing.

Background and Evidence

As noted above, as the tenant did not attend the hearing I consider the 10 Day Notice to be undisputed by the tenant. The effective vacancy date listed on the 10 Day Notice is September 2, 2018 which automatically corrects under section 53 of the *Act* to September 3, 2018 as I find the 10 Day Notice was served as of August 24, 2018 which was the date the registered mail package containing the 10 Day Notice was signed for and accepted.

The daughter testified that the tenant continues to occupy the rental unit and that the landlord is seeking an order of possession. The daughter also confirmed that the tenant has not paid any money for use and occupancy of the rental unit for October 2018.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

The daughter testified that the tenant continues to occupy the rental unit. Section 55 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.

[My emphasis added]

Given the above and after reviewing a copy of the 10 Day Notice, which has a corrected effective vacancy date of September 3, 2018, and which I find complies with section 52 of the *Act*, and pursuant to section 55 of the *Act*, I must grant an order of possession. Therefore, I grant the landlord an order of possession effective **two (2) days** after service on the tenant. I find the tenancy ended on September 3, 2018 which was the corrected effective vacancy date listed on the 10 Day Notice. I have also taken into account the undisputed testimony that no money has been paid by the tenant for use and occupancy for the month of October 2018.

Conclusion

The tenant's application is dismissed as the tenant failed to attend the hearing as scheduled.

I find the tenancy ended on September 3, 2018 which is the corrected effective vacancy date listed on the 10 Day Notice.

The landlord is granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, except as otherwise provided under the *Act*, and 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: October 30, 2018

Residential Tenancy Branch