



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, CNR

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an order of possession for unpaid rent pursuant to section 55.

The tenants applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46.

The landlord attended the hearing via conference call and provided affirmed testimony. The tenants did not attend. The landlord stated that the tenants were served with the notice of hearing package by posting it to the rental unit door. The landlord has submitted in support of this claim photographs of the posted documents.

This matter was set for a conference call hearing at 10:30 a.m. on this date. The landlord confirmed that he was not served with the tenants' application for dispute.

I waited until 22 minutes past the start of the scheduled hearing time in order to enable both parties to connect with this teleconference hearing.

Rule 7 of the Rules of Procedure provides that:

7.1 Commencement of the dispute resolution hearing

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

7.2 Delay in the start of a hearing

In the event of a delay of a start of a conference call hearing, each party must stay available on the line to commence the hearing for 30 minutes after the time scheduled for the start of the hearing.

In the event of a delay of a face-to-face hearing, unless otherwise advised, the parties must remain available to commence the hearing at the hearing location for 30 minutes after the time scheduled for the start of the hearing.

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.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of any evidence or submissions from the tenants and in the absence of the tenants' participation in this hearing, I order the tenants' application dismissed with leave to reapply. I make no findings on the merits of the matter.

I accept the undisputed affirmed testimony of the landlord and find that the tenants were sufficiently served with the notice of hearing package by posting it to the rental unit door on September 22, 2018 as per section 89 (2) (d) of the Act. Although the tenants did not attend they are deemed served as per section 90 of the Act.

Pursuant to section 55 (1) of the Act the hearing shall proceed on the landlord's request for an order of possession.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the both the tenant's claim and the landlord's cross claim and my findings around each are set out below.

This tenancy began on November 1, 2017 on a fixed term tenancy ending on October 31, 2019 as per the submitted copy of the signed tenancy agreement dated October 18, 2017. The monthly rent is \$2,350.00 payable on the 1st day of each month. A security deposit of \$1,175.00 was paid on October 18, 2017.

The landlord confirmed that the tenants were served with a 10 Day Notice dated September 9, 2018 in person. The landlord has submitted in support of this claim a copy of a proof of service document that states that the tenants were served with a witness on September 9, 2018. The 10 Day Notice states that the tenants failed to pay rent of \$9,400.00 that was due on September 1, 2018 and sets out an effective end of tenancy date of September 20, 2018.

The landlord claims that the tenants have failed to pay rent totalling \$9,400.00 for:

\$2,350.00	Unpaid Rent, June 2018
\$2,350.00	Unpaid Rent, July 2018
\$2,350.00	Unpaid Rent, August 2018
\$2,350.00	Unpaid Rent, September 2018

The landlord stated that as of the date of this hearing no rent has been paid by the tenants as of June 1, 2018.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

I accept the undisputed affirmed evidence of the landlord and find that the landlord did served the tenants with the 10 Day Notice dated September 9, 2018 in person on September 9, 2018. I also accept the undisputed affirmed evidence of the landlord and find that the tenants failed to pay any rent as of June 1, 2018. On this basis, I find that the landlord has established a claim for an order of possession for unpaid rent.

Conclusion

Pursuant to section 55 (1) of the Act the landlord is granted an order of possession.

The order of possession must be served upon the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia 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: October 30, 2018

Residential Tenancy Branch