



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, LRE, MT, FFT
OPR, MNRL, MNRL-S, FFL

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”). The matter was set for a conference call.

The Tenant’s Application for Dispute Resolution was made on July 24, 2018. The Tenant applied to cancel a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) dated July 6, 2018, to request more time to file, to restrict the Landlord’s access to the rental unit and the return of the filing fee. The Landlord’s Application for Dispute Resolution was made on July 24, 2018. The Landlord applied to enforce the 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) dated July 6, 2018, for a monetary order for unpaid rent, permission to retain the security deposit and to recover the filing fee.

The Property Manager, the Landlord and the Landlord’s advocate attended the conference call hearing; however, the Tenant did not. As the Tenant is also an applicant in this hearing, I find that the Tenant had been duly notified of the Notice of Hearing in accordance with the *Act*.

The Property Manager, the Landlord and the Landlord’s advocate were affirmed to be truthful in their testimony and were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all the evidence and testimony 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

Issues to be Decided

- Should the Notice to End Tenancy, dated July 6, 2018, be cancelled?
- If not, is the Landlord entitled to an Order of Possession?
- Is the Tenant entitled to additional time to file his application?
- Should the Landlord's right to access the rental unit be restricted?
- Is the Tenant entitled to recover the filing fee paid for this application?
- Is the Landlord entitled to a monetary order for unpaid rent?
- Is the Landlord entitled to retain the security deposit?
- Is the Landlord entitled to recover the filing fee paid for this application?

Background and Evidence

The Landlord testified that the tenancy began on March 1, 2018. Rent in the amount of \$650.00 is to be paid by the first day of each month. At the outset of the tenancy, the Tenant paid the him a \$325.00 security deposit.

The Landlord testified that they served the Notice to End Tenancy to the Tenant on July 6, 2018. The Landlord also testified that the Tenant had not paid the outstanding amount of rent despite their application to dispute the Notice. The Landlord also testified that the Tenant has not paid the rent for August and September 2018 and that the current rent outstanding is \$1,595.00, as of the date of this hearing. The Landlord is requesting an Order of Possession, a monetary order of the outstanding rent and permission to retain the security deposit.

Analysis

Based on the above, the oral testimony and the documentary evidence, and on a balance of probabilities, I find as follows:

I find that the Tenant received the 10-Day notice on July 6, 2018, and did apply to dispute the Notice within the legislated timeline. This matter was set for hearing by telephone conference call at 11:00 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 was the Landlord.

Rules 7.1 and 7.3 of the Rules of Procedure provide 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 Tenant did not attend the hearing by 11:10 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 the tenancy; I find the Notice 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.

Therefore, I find that the landlord is entitled to an order of possession, pursuant to section 55 of the *Act*, effective **two days** after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Additionally, I find that the Landlord has established an entitlement to a monetary award for unpaid rent. I grant the Landlord a monetary order in the amount of \$1,270.00, consisting of the unpaid rent for July, August and September 2018, less the \$325.00 security deposit the Landlord is holding.

As the Landlord was successful in this application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application

Conclusion

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

I grant an Order of Possession to the Landlord effective **two days** after service on the Tenant. The Tenant must be served with this Order. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I grant the Landlord a **Monetary Order** in the amount of **\$1,370.00** for the outstanding rent and the recovery of the filing fee for this application. The Landlord is provided with this Order in the above terms, and the Tenant must be served with this Order as soon as possible. Should the Tenant 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: September 14, 2018

Residential Tenancy Branch