



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KAHL REAL & PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI, FFT, CNR

Introduction

This hearing was convened in response to the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

The tenant requested:

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- a determination regarding their dispute of an additional rent increase by the landlord pursuant to section 43; and
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other.

Issues to be Decided

Are the tenants entitled to have the notice to end tenancy cancelled? If not, are the landlords entitled to an Order of Possession based on the 10 Day Notice?

Are the tenants entitled to an order to dispute a rent increase?

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

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about July 1, 2016. Rent in the amount of \$1300.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month(s) of August 2018 and on August 9, 2018 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of September and has not yet paid October. The landlord advised that they began managing this property on July 31, 2018. The landlord advised that the tenant only paid \$750.00 for the month of August and \$750.00 for the month of September. The landlord testified that despite the tenants' claims that his rent was reduced by the previous owner, the tenant has been unable to come up with any supporting documentation.

The tenant gave the following testimony. The tenant testified that he had an agreement with the previous owner to lower his rent to \$750.00 and that there was no end date to that agreement. The tenant testified that the rent reduction was to do work on the property and clean it up.

Analysis

The tenants failed to pay their rent in full within five days of being deemed to have received the 10 Day Notice. Although the tenants have made an application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice, they have **failed to provide sufficient evidence** to support their claim that their rent was reduced to \$750.00 per month or any other justification to not pay it in full.

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 an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

The notice to end tenancy required the tenants to vacate the unit by August 19, 2018. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord is granted an Order of Possession pursuant to Section 55 of the *Act*, which must be served on the tenant(s). 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.

The tenants have not been successful in their application.

Conclusion

The tenants' application is dismissed in its entirety without leave to reapply.
The tenancy is terminated. The landlord is entitled to an order of possession.

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 01, 2018

Residential Tenancy Branch