



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sovereignty Holdings Inc
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, CNR, FFT

Introduction

This is an Application for Dispute Resolution (the “Application”) brought by the Tenant requesting a cancellation of a One Month Notice to End Tenancy for Cause; the Application was amended to cancel a 10-Day Notice to End Tenancy for Unpaid Rent, and the Landlord confirmed there was no One Month Notice to End Tenancy, only a 10-Day Notice was served. The Tenant also requested an order for payment of the filing fee of \$100.00.

The Landlord’s property manager and legal counsel appeared for the scheduled hearing. The Tenant’s spouse also called into the hearing approximately 10 minutes after the scheduled time. Neither party raised a concern about the service of the Notice of Hearing or evidence that was submitted by the Tenant.

The hearing process was explained and parties were given an opportunity to ask any questions about the process. The parties were given a full opportunity to present evidence, make submissions, call witnesses and to cross-examine the other party on the relevant evidence provided in this hearing.

Although all evidence was taken into consideration at the hearing, only that which was relevant to the issues is considered and discussed in this decision.

Issues to be Decided

Is the Tenant entitled to a cancellation of the 10-Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46 of the Residential Tenancy Act (“Act”)?

If not, is the Landlord entitled to an Order of Possession, pursuant to section 55 of the Act?

Is the Tenant entitled to payment of her filing fee pursuant to section 72 of the Act?

Background and Evidence

This tenancy began May 15, 2018 with rent of \$6,000.00 payable on the 1st of each month; a \$150.00 additional charge was added for one of the utilities. A \$3,000.00 security deposit was paid. There was a written tenancy agreement between the parties, although it was not submitted into evidence.

The Landlord stated that there are arrears of \$31,611.43 as of October 1, 2018 and a 10-Day Notice to End Tenancy was served by registered mail to the Tenant on August 14, 2018. The effective date of the notice, which was submitted into evidence, is August 24, 2018. The Tenant disputed this notice on August 21, 2018 by filing her Application through the Residential Tenancy Branch.

The Landlord states that the Tenant appears to have abandoned the rental unit, leaving behind only some old broken furniture. He last had contact with her about three days ago, where she confirmed that she was just finishing up some cleaning. The Tenant's spouse confirmed that the Tenant has left the rental unit, although she still has the keys and indicated an intention to complete some cleaning. He did not provide a forwarding address, but did indicate that he assumes the Landlord will be retaining the security deposit because he agrees that rent is in arrears.

Analysis

As the tenancy has effectively ended and the Tenant has moved out of the rental unit, the Tenant's Application to dispute the Notice to End Tenancy is dismissed. The Landlord requests an Order of Possession to confirm that the Landlord is entitled to vacant possession as soon as possible.

Under section 55 of the Act, I must consider whether the Landlord is entitled to an Order of Possession in the event that a Tenant's Application to cancel a Notice to End Tenancy is dismissed:

*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. ...

(3) The director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order.

I have reviewed the 10-Day Notice to End Tenancy and find that it complies in form and in content with section 52, which requires that it be in writing and:

- 52. (a) be signed and dated by the landlord or tenant giving the notice,*
- (b) give the address of the rental unit,*
- (c) state the effective date of the notice,*
- (d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy,*
-*
- (e) when given by a landlord, be in the approved form.*

Accordingly, I am granting the Order of Possession in favour of the Landlord.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the tenant. 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.

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 11, 2018

Residential Tenancy Branch