



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

On October 15, 2018, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) to cancel a 10-day Notice to End Tenancy for Unpaid Rent, dated October 12, 2018. The matter was set for a participatory hearing via conference call.

The Tenants were contacted to pick up a copy of the Notice of a Dispute Resolution Hearing by the Residential Tenancy Branch on October 18, 2018. The Tenants; however, did not attend the teleconference hearing set for this date at 9:30 a.m. The phone line remained open for 25 minutes and was monitored throughout this time. The only person to call into the hearing was the Landlord who indicated that they were ready to proceed and were given a full opportunity to have their testimony be heard. I have confirmed that the file audit records indicate that the Tenants did not make any attempt to cancel the hearing prior to the start. I have also confirmed that the date, time and codes for the teleconference were correct and that the only persons showing on the teleconference system was the Landlord and myself.

After keeping the phone line open for 25 minutes, I dismissed the Tenants’ Application without leave to reapply as the Tenants failed to attend the hearing to present the merits of their Application or, at the very least, cancel their scheduled hearing in advance of the hearing.

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* states if a party or their agent fails to attend a 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.

As the Tenants did not call into the conference, the hearing was conducted in their absence and the Application was considered along with the affirmed testimony and evidence as presented by the Landlord.

Issue to be Decided

Should the Landlord be issued an Order of Possession, in accordance with Section 55 of the Act, as a result of the dismissed Application to cancel the 10-Day Notice to End Tenancy for Unpaid Rent?

Background and Evidence

The Landlord provided the following undisputed evidence:

The six-month, fixed term tenancy began on July 1, 2017. After six-months a new Tenancy Agreement was signed for another six-month period, and then continued on as a month-to-month tenancy. The monthly rent of \$1,350.00 and 25% of the hydro bill was due on the first of each month. The Landlord collected and still holds a \$675.00 security deposit.

The Landlord testified that he believes that only Tenant GMP is occupying the rental unit. The Tenant paid \$675.00 in rent for October 2018. As a result, the Landlord issued a 10-Day Notice to End Tenancy for Unpaid Rent, dated October 12, 2018 (the "Notice"), by taping it to the door of the rental unit. The move out date on the Notice was for October 22, 2018. The Landlord stated that the Tenant advised that the Landlord could apply the security deposit to the rent; to which the Landlord did not agree.

The Landlord stated that Tenant failed to pay the balance of the rent for October 2018, and also failed to pay rent for November 2018. The Landlord is requesting an Order of Possession for the rental unit.

Analysis

Section 55 of the Act requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a Notice to End Tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is

dismissed and the Landlord has issued a Notice to End Tenancy that is compliant with the Act.

Section 52 of the Act requires that any Notice to End Tenancy issued by a Landlord must be signed and dated by the Landlord; give the address of the rental unit; state the effective date, state the grounds for ending the tenancy; and be in the approved form.

I find the Notice to End Tenancy, issued by the Landlord on October 12, 2018 complies with the requirements set out in Section 52.

As I have dismissed the Tenants' Application to cancel the Notice and the Notice complies with the Act, I find that the Landlord should be issued with an Order of Possession in accordance with Section 55 of the Act.

Conclusion

I dismiss the Tenants' Application without leave to reapply.

Pursuant to Section 55 of the Act, I grant the Landlord an Order of Possession to be effective two days after notice is served 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: November 26, 2018

Residential Tenancy Branch