



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR, ERP, RP, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- more time to cancel a Notice to End Tenancy, pursuant to section 66;
- cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46;
- an Order for emergency repairs, pursuant to section 33;
- an Order for regular repairs, pursuant to section 32; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:12 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that he received the tenant's notice of dispute resolution and evidence packages via registered mail but could not recall on what date. I find that the aforementioned packages were served on the landlord in accordance with sections 88 and 89 of the *Act*.

Rule 7 of the Rules of Procedure provides as follows:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. Rule 7.3 states that 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.

Based on the above, **in the absence of any testimony from the applicant I order the application dismissed without liberty to reapply.**

I note that 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*.

Issue to be Decided

1. Is the landlord entitled to an Order of Possession, pursuant to section 55 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord provided undisputed testimony that this tenancy began approximately 5-6 months ago and is currently ongoing. Monthly rent in the amount of \$1,000.00 is payable on the first day of each month. A security deposit was paid by the tenant to the landlord; however, the landlord was not certain of the amount paid by the tenant.

The landlord testified that on November 7, 2018 he posted a 10 Day Notice to End Tenancy for Unpaid Rent with an effective date of November 21, 2018 (the "10 Day Notice") on the tenant's door. A witnessed proof of service document stating same and the 10 Day Notice were entered into evidence.

The landlord testified that he served the tenant with the 10 Day Notice because the tenant did not pay November's rent when it was due, that being November 1, 2018. The landlord testified that the tenant has not paid any rent for November or December 2018.

Analysis

Section 55 of the *Act* states that 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:

- the landlord's notice to end tenancy complies with section 52 *[form and content of notice to end tenancy]*, and

- the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Upon review of the 10 Day Notice, I find that it meets the form and content requirements of section 52 of the *Act*.

Since I have dismissed the tenant's application and found that the 10 Day Notice complies with section 52 of the *Act*, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*.

Conclusion

I order the tenant's application dismissed without liberty to reapply.

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service 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: December 21, 2018

Residential Tenancy Branch