



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

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

- Cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "Ten-Day Notice") pursuant to section 46.

The landlord's articulated student, GH attended the hearing on behalf of the landlord. The landlord had full opportunity to present evidence, and make submissions.

The tenant did not attend the hearing. I kept the teleconference line open during the duration of the hearing from 1:00 p.m. to 1:20 p.m. to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct participant code was provided to the tenant.

The landlord issued the Ten-Day Notice on February 19, 2019. The Ten-Day Notice stated unpaid rent of \$7,500.00 as of February 1, 2019 with a move out date of March 1, 2019. The landlord testified that the Ten-Day Notice was personally served on the tenant on February 19, 2019. I find the tenant has been properly served with the Ten-Day Notice pursuant to section 88 of the *Act*.

Issue(s) to be Decided

Is the tenant entitled to cancellation of the Ten-Day Notice under section 46?

If the tenant is not successful in cancelling the Ten-Day Notice is the landlord entitled to an order of possession under section 55?

Background and Evidence

The landlord testified that the parties had an oral tenancy agreement. The rent was \$2,500.00 payable monthly.

The landlord testified that the parties had reached a settlement agreement between themselves prior to the hearing. The landlord testified that this settlement included an agreement that the tenant would vacate the rental unit by May 15, 2019. The landlord requested an order of possession for that date.

Analysis

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'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.

Based on the Ten-Day Notice entered as written evidence and the landlord's sworn testimony confirming the outstanding rent, I find that the landlord's Ten-Day Notice complies with section 52 of the *Act*. The tenant's failure to attend this hearing and present evidence relating to his application leads me to order that his application to cancel the Ten-Day is dismissed without liberty to reapply.

Based on my decision to dismiss the tenant's application for dispute resolution and my finding that the landlord's Ten-Day Notice complies with section 52 of the *Act*, I find that this tenancy ended on the effective date of the Ten-Day Notice, February 29, 2019, and the landlord is entitled to an Order of Possession. At the request of the landlord, the order of possession will be effective at 1:00 p.m. on May 15, 2019.

Conclusion

The landlord is provided with a formal copy of an Order of Possession effective at **1:00 p.m. on May 15, 2019**. Should the tenant fail to comply with this Order, this Order may be enforced as an Order of the Supreme Court of British Columbia.

The tenant's application to cancel the Ten-Day is dismissed without liberty to reapply.

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: March 20, 2019

Residential Tenancy Branch