



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDCT, OLC, RR

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;
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- a monetary order for compensation for money owed or damages under the *Act*, regulation or tenancy agreement pursuant to section 67.

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. The landlord was represented by his daughter who acted as his agent for this hearing.

Issues to be Decided

Is the tenant entitled to have the 10 Day Notice to End Tenancy cancelled? If not, is the landlord entitled to an order of possession?

Is the tenant entitled to an order compelling the landlord to comply with the Act, regulations or tenancy agreement?

Is the tenant entitled to an order to reduce his rent?

Is the tenant entitled to a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement?

Background and Evidence

The landlords' agent gave the following testimony. The tenancy began on December 1, 2017 with the monthly rent of \$1250.00 due on the first of each month. The agent testified that the tenant has been consistently late in paying the rent throughout the tenancy and that numerous notices to end tenancy have been given. The agent testified that on February 2, 2019 the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The agent testified that the tenant was in arrears of \$950.00 plus \$1250.00 for February. The agent testified that the tenant paid February's rent on February 20, 2019 but the tenancy was not reinstated. The agent testified that the tenant has still not paid rent for March 2019. The agent requests an order of possession.

The tenant gave the following testimony. The tenant testified that he agrees with the facts as outlined by the landlords' agent but requests an extension of time. The tenant testified that he could be all "caught up" by the middle of April 2019.

Analysis

The tenants failed to pay their rent in full within five days of being deemed to have received the 10 Day Notice. 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. The tenant has failed to provide sufficient evidence or justification to have the notice cancelled; they in fact confirmed the landlords' testimony that they did not pay all rental arrears within five days of being served the notice to end tenancy.

I find that the notice to end tenancy complies with section 52 of the *Act* in its form and content. Based on the above, 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 tenant was given three opportunities to fully explain and present his claim; however, he chose to only address the unpaid rent and order of possession portion of

his claim. Despite the tenant being given a full opportunity to address the other items, he remained silent; accordingly, I dismiss the remainder of the tenants' application.

The tenant has not been successful in his application.

Conclusion

The landlord is granted an order of possession. The tenancy is terminated.

The tenants' application is dismissed in its entirety without leave 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 18, 2019

Residential Tenancy Branch