



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MEICOR PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR (landlord); CNR, MNDC, OLC, LRE, AAT (tenant)

Introduction

This hearing dealt with an application by the landlord under the Residential Tenancy Act (the *Act*) for the following:

- An order for possession pursuant to section 46 and 55.

This hearing also dealt with an application by the tenant under the *Act* for the following:

- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("Ten-Day Notice") pursuant to section 49;
- A monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- An order requiring the landlord to comply the *Act*, regulations, and/or tenancy agreement pursuant to section 62;
- An order to restrict or suspend the landlord's right of entry pursuant to section 70;
- An order for the landlord to allow the tenant access to the unit pursuant to section 70.

I conducted this hearing by teleconference. The landlord attended represented by the agents DJ and HT and provided affirmed testimony. The landlord made submissions as well as presented oral and written evidence.

The tenant did not attend the hearing. I kept the teleconference line open from the time the hearing was scheduled for fifteen minutes 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 call-in number and participant code for the tenants had been provided.

The landlord testified the landlord served the tenant with the Application for Dispute Resolution and supporting documents pursuant to section 89 of the *Act* by registered mail sent on April 26, 2019. The landlord provided the Canada Post tracking number for the registered mail referenced on the first page of this decision. Pursuant to sections 89 and 90, I find the landlord served the tenant on May 1, 2019, the 5th day after mailing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession pursuant to sections 46 and 55 of the *Act*?

Is the tenant entitled to the following:

- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (“Ten-Day Notice”) pursuant to section 49;
- A monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement pursuant to section 67 of the *Act*;
- An order requiring the landlord to comply the *Act*, regulations, and/or tenancy agreement pursuant to section 62;
- An order to restrict or suspend the landlord’s right of entry pursuant to section 70;
- An order for the landlord to allow the tenant access to the unit pursuant to section 70.

Background and Evidence

The landlord testified that the parties entered into a signed residential tenancy agreement commencing October 1, 2015. Rent is currently \$859.00 a month payable on the first of the month. The landlord submitted a copy of the agreement signed by both parties.

The landlord testified the tenant paid a security deposit at the start of the tenancy in the amount of \$387.50.

The landlord submitted a copy of the Ten-Day Notice to End Tenancy for Nonpayment of Rent (“the Ten-Day Notice”) dated April 2, 2019 for non-payment of the rent for April ; the landlord testified the landlord served the Ten-Day Notice on the tenant by posting the Ten-Day Notice to the tenant’s door on April 2, 2019 and deemed received by the tenant three days later pursuant to section 90, that is, on April 5, 2019. The landlord also provided uncontracted affirmed testimony that the tenant had not paid any rent since that time and rent for May 2019 has not been paid. The landlord testified two months rent is currently outstanding.

The landlord submitted a copy of the Ten-Day Notice with an effective vacancy date of April 12, 2019 as evidence. The Notice requires the tenant to pay the rent and utilities to the landlord or file an Application for Dispute Resolution within five days.

The landlord testified the tenant did not pay the rent owing for April and May 2019. The landlord provided uncontradicted testimony that rent is owing in the amount stated, that is, \$859.00 for each of the two months.

The tenant filed an Application for Dispute Resolution on April 3, 2019. The landlord testified the tenant served the landlord with the Application for Dispute Resolution on April 8, 2019.

The landlord testified the tenant has made no subsequent payments and continues to reside in the rental unit.

The landlord did not request a monetary order for outstanding rent or reimbursement of the filing fee of \$100.00.

The landlord requested an order of possession effective two days after service.

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*.

Analysis

I have reviewed all documentary evidence and testimony.

I find the form and content of the Ten-Day Notice complies with section 52 of the *Act*. I find the tenant was served with the Ten-Day Notice on April 5, 2019 in accordance with sections 88 and 90 of the *Act*. I find the tenant did not pay the overdue rent.

As the tenant has failed to appear or submit evidence, I dismiss the tenant's Application without leave to reapply.

Section 55(1) of the *Act* states as follows:

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.

I have dismissed the tenant's application and upheld the landlord's Notice. As the tenant continues to occupy the unit, I find the landlord is entitled to an order of possession under section 55, effective two days after service of the order.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant.

This order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order with the Supreme Court of British Columbia to be enforced as an order of that Court.

Dated: May 17, 2019

Residential Tenancy Branch