



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

I was designated to hear this matter pursuant to section 58 of the *Residential Tenancy Act* (the *Act*). The tenant applied for cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46 of the *Act*.

The Respondent called into this teleconference hearing at the date and time set for the hearing of this matter. The Applicant did not, although I waited until 9:41a.m. to enable them to connect with this teleconference hearing scheduled for 9:30 a.m. The Respondent gave sworn testimony that they received an email moments before the start of this hearing to advise that the Applicant/tenant did not plan to participate in this hearing, understood that their tenancy must end, and asked to be allowed to remain there until the end of the month in order to move their possessions from the rental unit. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Respondent and I were the only persons who had called into this teleconference.

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Accordingly, in the absence of any attendance at this hearing by the Applicant or any written evidence calling into question the landlord's evidence and testimony, I order the application dismissed without liberty to reapply.

Issues(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

This tenancy began on March 1, 2019. As the tenant moved from the original room in this basement suite shared with other tenants after this tenancy began to a larger room in that basement suite, the landlord gave undisputed sworn testimony that the monthly rent increased to \$700.00, the current monthly rent.

The landlord gave undisputed sworn testimony, supported by the tenant's own application, that the landlord posted the 10 Day Notice on the tenant's door on June 12, 2019. This Notice identified June 23, 2019, as the effective date when this tenancy would end unless the tenant paid the amount owing for June 2019. The landlord gave undisputed sworn testimony that the tenant has paid nothing further towards this tenancy since the 10 Day Notice was issued. The landlord said that although the 10 Day Notice only identified \$700.00 as owing for June 2019, unpaid rent of \$250.00 remains owing for May 2019, \$700.00 for June 2019, and \$700.00 for July 2019.

At the hearing, I noted that the tenant had not provided a copy of the 10 Day Notice as part of the tenant's written evidence required to consider the tenant's application when the tenant applied to cancel that Notice. The landlord agreed to provide a copy of the 10 Day Notice to the Residential Tenancy Branch's (the RTB's) Service Portal for written evidence submissions by the end of the day on the day of the hearing. I advised the landlord that without a copy of the 10 Day Notice, I would be unable to consider issuing an Order of Possession based on the 10 Day Notice. Although the landlord could have requested a 2 Day Order of Possession, the landlord asked for an Order of Possession to take effect on July 31, 2019.

Analysis

Section 26(1) of the *Act* establishes that "a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to

deduct all or a portion of the rent.” Section 46(1) of the *Act* establishes how a landlord may end a tenancy for unpaid rent “by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.” Section 46(2) of the *Act* requires that “a notice under this section must comply with section 52 [*form and content of notice to end tenancy*].

Section 55(1) of the *Act* reads 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.*

In accordance with my instructions at this hearing, the landlord provided a copy of the 10 Day Notice to the RTB on the RTB's Service Portal within an hour of the end of this hearing. Based on my review of this document, I am satisfied that the landlord's 10 Day Notice was on the proper RTB form and complied with the content requirements of section 52 of the *Act*. For these reasons, I dismiss the tenant's application and I find that the landlord is entitled to an Order of Possession.

Conclusion

The tenant's application is dismissed. The landlord is provided with a formal copy of an Order of Possession effective by 1:00 p.m. on July 31, 2019. 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: July 25, 2019

Residential Tenancy Branch