



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC CNC CNR LAT RP

Introduction

This hearing dealt with applications from both the landlord and tenants pursuant to the Residential Tenancy Act.

The landlord applied for an order of possession pursuant to section 55.

The tenant s applied for:

- Cancellation of a 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”) pursuant to section 47;
- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”) pursuant to section 46;
- An order restricting the landlord’s right to enter the rental unit pursuant to section 70; and
- An order for repairs pursuant to section 33.

The tenants did not attend this hearing which lasted approximately 20 minutes. The teleconference line remained open for the duration of the hearing. The Notice of Hearing was confirmed to contain the correct information. The landlords attended and were given a full opportunity to give affirmed testimony, present evidence, make submissions and call witnesses.

The landlords testified that they served the tenants with the 10 Day Notice and 1 Month Notice on June 4, 2019 by posting on the rental unit door. The landlords testified that they served their application for dispute resolution dated June 19, 2019 by registered mail sent on that date. The landlords provided evidence of registered mail. Based on the evidence I find that the tenants were deemed served with the landlords’ notices on June 7, 2019, 3 days after posting in accordance with sections 88 and 90 of the Act and

deemed served with the landlord's application and evidence on June 24, 2019, 5 days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Are the tenants entitled to any of the relief sought?
Are the landlords entitled to an order of possession?

Background and Evidence

The monthly rent for this periodic tenancy is \$980.00 payable by the 15th of each month. The landlords gave evidence that there was an arrear of \$280.00 as at the date of the 10 Day Notice. The landlords indicated on the 1 Month Notice that one of the reasons for this tenancy to end is that the tenants have been repeatedly late paying rent. The landlords submitted into documentary evidence the tenant ledger showing the late payments made during the course of this tenancy.

Analysis

The tenants did not attend the hearing which was scheduled by conference call at 11:00am. Rule 7.3 of the Rules of Procedure provides 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.

Consequently I dismiss the tenants' application without leave to reapply.

Section 55 of the *Act* provides 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

- (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 I find that the landlord's 1 Month Notice complies with the form and content requirements of section 52 as it is signed and dated

by the landlord, provide the address of the rental unit, the effective date of the notice, and the grounds for the tenancy to end. I find that the landlords have provided sufficient evidence to show that the tenants have been repeatedly late paying rent, on more than 3 occasions during the past 12 months. I find that the landlord is entitled to an Order of Possession pursuant to section 55. As the effective date of the notice has passed, I issue an Order of Possession effective two (2) days after service.

Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

I grant an Order of Possession to the landlords effective **2 days after service on the tenants**. Should the tenants or anyone on the premises 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