



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNR OLC**

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 "**Notice**") pursuant to section 46; and
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:45 am in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 am. The landlord's daughter attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing.

The landlord's daughter testified that the tenant was personally served with the landlord's evidence on August 26, 2019. I find that the tenant was served with this evidence in accordance with section 88 of the Act.

Issue(s) to be Decided

Is the tenant entitled to:

- 1) the cancellation of the Notice; and
- 2) an order that the landlord comply with the Act.

Background and Evidence

While I have considered the documentary evidence and the testimony, not all details of the submissions and arguments are reproduced here. The relevant and important aspects of the parties' claims and my findings are set out below.

The landlord's daughter testified that the parties entered into a written tenancy agreement starting March 1, 2019. Monthly rent is \$1,500.00 and is payable on the first of each month. The tenant paid the landlord a security deposit of \$750.00. The landlord still retains this deposit. The landlord did not enter a copy of the tenancy agreement into evidence.

The landlord's daughter testified that the tenant has abandoned the rental unit.

The landlord testified that the tenant was personally served with the Notice on July 10, 2019. It sets out an effective date of July 20, 2019. The Notice stated that \$1,500.00 in rent was owed as of July 1, 2019, plus an unspecified amount of utilities.

The landlord testified that, to date, the tenant has not paid rent for July, August or September 2019, and that the tenant is in rental arrears of \$4,500.00.

Analysis

In accordance with sections 88 and 90 of the Act, I find that the tenant was served with the Notice on July 10, 2019.

Rule of Procedure 6.6 states:

6.6 The standard of proof and onus of proof

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party.

For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

As such, the landlord must satisfy me that the tenant has failed to pay July 2019 rent. The landlord's daughter has provided uncontroverted oral evidence, which I accept, that the tenant has failed to do so.

On this basis I find that the Notice was validly issued, and that the tenant owes the landlord \$1,500.00 in rent for July 2019. I make no findings as to subsequent month's rent.

Section 55 of the Act states:

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 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 find that the Notice complies with section 52. Accordingly, I grant the landlord an order of possession against the tenant effective two days after service of this order by the landlord on the tenant.

I decline to make any order regarding the repayment of any rent owing, as no application for repayment is before me.

As I have issued an order of possession, I dismiss the tenant's application for an order that the landlord comply with the Act.

Conclusion

The tenant's application is dismissed, without leave to reapply.

I grant an order of possession to the landlord effective two days after service of this order on the tenant. Should the tenant fail to comply with this order, this order may be filed in, 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: September 09, 2019

Residential Tenancy Branch