



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNR RP**

Introduction

This hearing dealt with an Application for Dispute Resolution under the Residential Tenancy Act (the “Act”). The tenant is seeking cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Ten Day Notice”) pursuant to Section 46(4) and an order for repairs pursuant to Section 32.

The matter was set for hearing by telephone conference call. MB, the agent of the landlord, attended (“the landlord”). The tenant did not attend although I left the teleconference hearing connection open for fourteen minutes to enable her to call. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system the landlord and I were the only ones who had called into this teleconference.

The landlord acknowledged service of the Notice of Hearing and documents by registered mail and appeared at the hearing. The landlord testified the landlord personally served the landlord’s documents upon the tenant on November 6, 2019. I find the parties were served in accordance with the Act.

Issues to be Decided

- Is the tenant entitled to cancellation of the Ten Day Notice and reimbursement of the filing fee pursuant to Sections 46(4) and 72 of the Act?
- Is the tenant entitled to an Order for repairs pursuant to Section 32 of the Act?
- Is the landlord entitled to an Order of Possession pursuant to Section 55(1) of the Act?

Background

- The landlord provided uncontradicted evidence regarding the tenancy as the tenant did not attend the hearing. The parties entered into a one-year fixed term tenancy agreement commencing April 1, 2019. The landlord submitted a copy of the tenancy agreement.

Monthly rent is \$1,350.00 payable on the first of the month. The tenant paid a security deposit of \$675.00 which is held by the landlord. The landlord submitted as evidence a ledger showing all payments made by the tenant from the start of the tenancy to October 2019. At the time of the hearing, rent for two months (October and November 2019) was owing in the amount of \$2,700.00 and the tenant had not vacated the premises.

The landlord submitted the "Ten Day Notice" dated October 3, 2019 as evidence requiring the tenant to vacate the premises for non-payment of rent due October 1, 2019 by October 20, 2019. The Ten Day Notice was served on the tenant by posting to the tenant's door on October 3, 2019, thereby effecting service under Section 90 on October 6, 2019. The landlord provided a Proof of Service form.

Pursuant to Section 88 and 90 of the *Act*, I find the tenant was served with the Ten Day Notice on October 6, 2019. The effective date of the Ten Day Notice was October 20, 2019.

The landlord testified the tenant did not pay the outstanding rent within the five-day period and rent for the month of November 2019 had subsequently accumulated.

The tenant brought an application to cancel the Notice on October 11, 2019.

Analysis

- To be effective, the Ten Day Notice must comply with the provisions of Section 52. I find the Ten Day Notice complied with Section 52 of the *Act*.

I find the Ten Day Notice was properly served upon the tenant on October 6, 2019, pursuant to Sections 88 and 90 of the *Act*.

A tenant may dispute a notice under Section 46 by making an application for dispute resolution within five days after the date the tenant receives the notice. As the tenant

has failed to appear at this hearing or submit any testimony or evidence, I dismiss the tenant's request to cancel the Ten Day Notice as well as the claim for an Order for repairs.

Pursuant to Section 55(1), the director must grant to the landlord an Order of Possession of the rental unit if the landlord's notice to end tenancy complies with Section 52 and the tenant's application is dismissed. I therefore grant the landlord an Order of Possession.

As the tenant did not attend the hearing and no evidence was entered or submissions made, I Order the application dismissed without leave to reapply.

Conclusion

I grant the landlord an Order of Possession which is 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.

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: November 21, 2019

Residential Tenancy Branch