



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlords' property manager 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. I also confirmed from the teleconference system that the landlords' property manager and I were the only ones who had called into this teleconference.

I note that section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

The property manager testified that the landlords' representatives were personally served with the tenant's application for dispute resolution on September 13, 2019. I find that the landlords were served with the tenant's application for dispute resolution in accordance with section 89 of the *Act*.

Preliminary Issue- Amendment

The property manager testified that he was listed as the landlord on the tenant's application for dispute resolution; however, he is the property manager, not the landlord. The property manager requested that the tenant's application for dispute resolution be amended to list the owners of the subject rental property as the landlords. Pursuant to section 64 of the *Act*, I amend the tenant's application to state the owners of the subject rental property as the landlords, not the property manager.

Issues to be Decided

1. Is the tenant entitled to cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46 of the *Act*?
2. If the tenant's application is dismissed or the 10 Day Notice to End Tenancy for Unpaid Rent is upheld and the notice complies with section 52 of the *Act*, is the landlord entitled to an Order of Possession, pursuant to section 55 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the property manager, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the property manager's claims and my findings are set out below.

The property manager provided the following undisputed testimony. This tenancy began on January 1, 2018 and is currently ongoing. Monthly rent in the amount of \$2,150.00 is payable on the first day of each month. A security deposit of \$1050.00 and a pet damage deposit of \$525.00 were paid by the tenant to the landlord. A written tenancy agreement was signed by both parties and a copy was submitted for this application.

The property manager testified that on September 5, 2019 a 10 Day Notice to End Tenancy for Unpaid Rent with an effective date of September 18, 2019 (the "10 Day Notice") was posted on the tenant's door. The 10 Day Notice and a witnessed proof of service document were entered into evidence.

The landlord testified that on August 23, 2019 the tenant paid \$700.00 towards September 2019's rent but has not paid any rent money since that date. A tenant ledger

from April 29, 2019 to October 1, 2019 was entered into evidence and confirms the property manager's testimony.

Analysis

Rule 7 of the Residential Tenancy Branch Rules of Procedure provides in part as follows:

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. 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.

The tenant failed to attend this hearing. Pursuant to Rule 7 of the Residential Tenancy Branch Rules of Procedure, I dismiss the tenant's application without leave to reapply.

Section 55 of the *Act* states 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:

- the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
- the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Upon review of the 10 Day Notice, I find that it meets the form and content requirements of section 52 of the *Act*.

Since I have dismissed the tenant's application and have found that the 10 Day Notice meets the form and content requirements of section 52 of the *Act*, I find that the landlords are entitled to an Order of Possession, pursuant to section 55 of the *Act*.

Conclusion

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

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlords effective **two days after service on the tenant**. 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: November 15, 2019

Residential Tenancy Branch