



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

Tenant: CNR RP RR LRE FF

Landlord: ET FFL

Introduction

This hearing was convened in response to cross applications by both parties pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows. The tenant made application September 20, 2019 for:

1. To Cancel a 10 Day Notice to End tenancy for Unpaid rent - Section 46
2. Order for repairs – Section 62
3. Order to reduce the rent – Section 65
4. Order controlling the landlord's right to enter – Section 70
5. An Order to recover the filing fee for this application - Section 72

The landlord made application September 16, 2019 for:

1. An Order ending tenancy early with Order of Possession - Section 56
(*Urgent application about a tenant who poses an immediate and Severe risk to the rental property, other occupants or the landlord*)
2. An Order to recover the filing fee for this application - Section 72

The tenant was provided with a copy of the Notice of a Dispute Resolution Hearing dated September 04, 2019 after filing their application to dispute the landlord's Notice to End. The tenant, however, did not attend the hearing set for today at 9:30 a.m. The phone line remained open for the duration of the hearing of 15 minutes and was monitored throughout the entire time. The only party to call into the hearing was the landlords and their legal counsel. I accept the landlord's evidence the tenant was served with the landlord's application for dispute resolution and notice of hearing as well

as their evidence by registered mail, for which they provided proof of registered mail service. The landlord acknowledged receiving the application and evidence of the tenant. Therefore, as preliminary in this matter the tenant's application **is dismissed**, without leave to reapply

The landlord testified the tenant still resides in the unit. In the absence of the tenant the landlord was given opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Does the tenant pose an immediate and severe risk to the rental property, other occupants or the landlord, therefore entitling the landlord to an immediate end to the tenancy with Order of possession?

Is the landlord entitled to a Monetary Order?

Background and Evidence

The landlord testified that the tenant has not paid monthly rent of \$4000.00 since August 2019, for which the landlord served the tenant the Ten-Day Notice to End of this matter dated September 17, 2019. I have benefit of a copy of the Notice to End. The tenant applied to dispute the Notice to End of this matter but did not attend the hearing.

The landlord testified they currently have no place of their own in which to live and therefore seek to reclaim the rental unit. The landlord also testified they are supporting a mortgage of \$7000.00 each month. The landlord testified this is the urgency of their application requesting an immediate Order of Possession.

Analysis

The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: www.gov.bc.ca/landlordtenant.

Based on the landlord's evidence I find they have not presented sufficient and valid evidence pursuant to Section 56 of the Act requiring proof that the tenant poses an immediate and severe risk to the rental property, other occupants or the landlord, therefore entitling the landlord to an immediate end to the tenancy and Order of possession. As a result, the landlord's application is **dismissed** in its entirety, without leave to reapply.

None the less, having dismissed the tenant's application I find that the tenant applied to dispute the landlord's Ten-day Notice to End Tenancy for non payment of rent. According to the landlord the tenant has not paid the outstanding rent and despite applying for Dispute Resolution to dispute the notices they have not attended their own hearing to defend their application.

Moreover, I find the landlord's Notice to End complies with the form and content required by **Section 52** of the Act; and, in this type of matter, **Section 55(1)** of the Act prescribes that if I dismiss the tenant's application or uphold the landlord's Notice to End I *must* grant the landlord an **Order of Possession**.

Conclusion

The applications of each party are dismissed, without leave to reapply, for the reasons set out above. Pursuant to Section 55(1) of the Act.

I grant an Order of Possession to the landlord **effective 2 days from the day it is served on the tenant**. The tenant must be served with this Order of Possession. Should the tenant fail to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

This Decision is final and binding.

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: December 02, 2019

Residential Tenancy Branch