



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SINGLA HOMES (2005) SINGLA
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

ET, FFL, CNR, LRE, OLC

Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an early end to the tenancy; an Order of Possession and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on December 17, 2019 he personally served the Tenant with the Dispute Resolution Package and evidence the Landlord submitted to the Residential Tenancy Branch in December of 2019. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however, the Tenant did not appear at the hearing.

As the Tenant was properly served with the aforementioned documents, the evidence was accepted as evidence for these proceedings and the hearing proceeded in the absence of the Tenant.

The Tenant filed an Application for Dispute Resolution, in which the Tenant applied to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities; for an Order suspending or setting limits on the Landlord's right to enter the rental unit; and for an Order requiring the Landlord to comply with the tenancy agreement and/or the *Residential Tenancy Act (Act)*.

The parties present at the hearing were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each party

present at the hearing affirmed that they would provide the truth, the whole truth, and nothing but the truth at these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to end the tenancy early and to an Order of Possession?
Should the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities be set aside?
Is there a need to issue an Order requiring the Landlord to comply with the *Act*?
Is there a need to issue an Order suspending or setting conditions on the Landlord's right to enter the rental unit?
Is the Landlord entitled to recover the fee paid to file an Application for Dispute Resolution?

Background and Evidence

This hearing commenced at the scheduled start time of 9:30 a.m. on this date. The Landlord was represented at the hearing at the scheduled start time. By the time the teleconference was terminated at 9:43, the Tenant had not appeared.

The Landlord stated that:

- this tenancy began on October 01, 2018;
- the Tenant was required to pay monthly rent of \$1,600.00 by the first day of each month;
- a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, which had a declared effective date of December 13, 2019, was personally served to the Tenant on December 02, 2019;
- when the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was served to the Tenant, the Tenant owed \$6,400.00 in rent;
- the Tenant has paid not rent since December 02, 2019;
- he intended to file an application for an Order of Possession on the basis of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities that was served on December 02, 2019; and
- he applied for an Order of Possession on the basis of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities.

Analysis

Although I accept the Landlord's testimony that he intended to apply for an Order of Possession on the basis of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, Residential Tenancy Branch records show that the Landlord applied for an

early end to the tenancy and for an Order of Possession on that basis. As this is the issue on the Landlord's Application for Dispute Resolution, this is the issue that I must consider at these proceedings.

I find that it would be highly prejudicial to the Tenant to consider an Order of Possession on the basis of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, as the Tenant was not present at the hearing and she was not informed that this would be an issue at these proceedings.

Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

Section 56(2)(a) of the *Act* does not authorize me to end a tenancy early on the basis of unpaid rent or any financial hardship that creates for the Landlord. I therefore dismiss the Landlord's application for an early end to the tenancy or for an Order of Possession on that basis.

The Landlord has failed to establish the merit of the Landlord's Application for Dispute Resolution, and I dismiss the Landlord's application to recover the fee for filing an Application for Dispute Resolution.

As the Tenant did not attend the hearing in support of her Application for Dispute Resolution, I find that she failed to diligently pursue her Application for Dispute Resolution. I therefore dismiss her Application for Dispute Resolution, without leave to reapply.

Section 55(1) of the *Act* stipulates 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 of the *Act*, and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

As I have dismissed the Tenant's application to cancel the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, and the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities complies with section 52 of the *Act*, I must grant the Landlord an Order of Possession, pursuant to section 55(1) of the *Act*.

Conclusion

The Landlord's Application for Dispute Resolution is dismissed, without leave to reapply.

The Tenant's application to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities is dismissed, without leave to reapply.

Pursuant to section 55(1) of the *Act*, I grant the Landlord an Order of Possession that is effective on February 29, 2020. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and 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 *Act*.

Dated: February 06, 2020