



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW HEARING DECISION

Dispute Codes CNR OLC FFT

Introduction

The matter originally proceeded by way of a hearing on April 21, 2020 for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*.

On May 5, 2020 the landlord was granted their application for review consideration, and the Decision dated April 21, 2020 was suspended until the Review Hearing scheduled for June 9, 2020.

The landlord filed the application for review consideration on the grounds that he did not attend the original scheduled hearing as he was never served the tenant's application for dispute resolution.

While the landlord attended the review hearing, the tenant did not. I waited until 11:10 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 a.m. The landlord 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. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

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 landlord testified that he had served the tenant the review consideration decision along with his evidentiary materials by way of registered mail on May 22, 2020. The landlord provided a copy of the receipt and tracking information. In accordance with sections 88, 89, and 90 of the *Act*, I find the tenant deemed served with the package on May 27, 2020, 5 days after mailing.

The landlord testified that the tenant was personally served with the 10 Day Notice for Unpaid Rent on March 2, 2020. In accordance with section 88 of the *Act*, I find the tenant duly served with the 10 Day Notice on March 2, 2020.

Issue(s) to be Decided

Should the Decision dated April 21, 2020 be confirmed?

Background and Evidence

The landlord gave undisputed testimony regarding the following facts. This tenancy began on April 8, 2019. The monthly rent is currently set at \$1,500.00, payable on the 8th day of each month. The landlord did not collect a security deposit of this tenancy.

The landlord served the tenant with a 10 Day Notice for Unpaid Rent on March 2, 2020 for failing to pay \$3,400.00 in outstanding rent. The tenant filed an application to dispute the 10 Day Notice, but failed to attend the hearing on April 21, 2020, and the application was dismissed with leave to reapply.

The landlord testified that since the 10 Day Notice was issued, the tenant has only made partial payments as follows: \$800.00 on April 10, 2020; \$500.00 on April 25, 2020, and \$1,000.00 on May 15, 2020. The landlord testified that the tenant still owes rent for this tenancy, and has failed to pay any rent for June 2020. The landlord is seeking an Order of Possession.

Analysis

In the absence of any submissions in this hearing from the tenant, I order the tenant's entire application dismissed without leave to reapply.

Section 55(1) of the *Act* reads as follows:

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 10 Day Notice complies with section 52 of the *Act*. Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1) of the *Act*, and as the effective date of the 10 Day Notice has passed, I find that the landlord is entitled to a 2 day Order of Possession.

Conclusion

I dismiss the tenant's entire application without leave to reapply.

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia. Please note the following exception below:

***Ministerial Order M089* issued March 30, 2020, pursuant to the State of Emergency declared on March 18, 2020, prohibits the enforcement of certain Residential Tenancy Branch orders made during the state of emergency. Enforcement of other Residential Tenancy Branch orders may be affected by the suspension of regular court operations of the BC Supreme Court and Provincial 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: June 9, 2020

Residential Tenancy Branch