



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

On September 16, 2020, the Tenant filed an Application for Dispute Resolution under the *Residential Tenancy Act* (“the *Act*”) to cancel a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice). The matter was set for a conference call.

The Landlord attended the conference call hearing; however, the Tenant did not. As the Tenant is the applicant in this hearing, I find that the Tenant had been duly notified of the Notice of Hearing in accordance with the *Act*.

The Landlord was affirmed to be truthful in her testimony and was provided with the opportunity to present her evidence orally and in written and documentary form and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Should the Notice to End Tenancy be cancelled?
- If not, is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord testified that the tenancy began on February 15, 2020, that rent in the amount of \$1,295.00 is to be paid by the first day of each month and that the Tenant had paid a \$647.50 security deposit at the outset of this tenancy.

The Landlord testified that they served the Tenant with the Notice to end tenancy by posting it to the front door of the rental unit on September 12, 2020, with an effective date of September 21, 2020. The Notice informed the Tenant of the right to dispute the Notice or pay the outstanding rent within five days after receiving it. The Notice also informed the Tenant that if an application to dispute the Notice or payment of the outstanding rent in full is not made within five days, the Tenant is presumed to have accepted the Notice and must move out of the rental unit on the date set out on page one of the Notice. A copy of the Notice had been submitted with the Tenants application.

The Landlord testified that as of the date of this hearing, the Tenant had not paid the rent for September 2020. The Landlord is requesting an Order of Possession to enforce the Notice.

Analysis

Based on the above, the oral testimony and the documentary evidence, and on a balance of probabilities, I find as follows:

I find that the Tenant received the 10-Day notice on September 12, 2020 and did apply to dispute the Notice within the legislated timeline. This matter was set for hearing by a telephone conference call at 9:30 a.m. on this date. The line remained open while the phone system was monitored for ten minutes, and the only participant who called into the hearing was the Landlord.

Rules 7.1 and 7.3 of the Rules of Procedure provide as follows:

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

7.3 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.

Therefore, as the Tenant did not attend the hearing by 9:41 A.M, I dismiss the Tenant's application to cancel the Notice without leave to reapply.

Section 55 of the *Act* states that a landlord may request an order of possession if a notice to end the tenancy has been given by the landlord and the tenant was not successful in disputing the notice.

Order of possession for the landlord

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.

As the Tenant's application to dispute the Notice has been dismissed, I find that the Landlord is entitled to an order of possession. Pursuant to sections 55 of the *Act*, I grant an Order of Possession to the Landlord effective two days after service of the order on the Tenant. The Tenant is cautioned that costs of such enforcement is recoverable from the Tenant.

Conclusion

I dismiss the Tenant's Application for Dispute Resolution without leave to reapply.

I grant an **Order of Possession** to the Landlord effective **two days** after service of this Order 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 10, 2020

Residential Tenancy Branch