



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR CNC CNR DRI

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlord requested:

- an Order of Possession for unpaid rent pursuant to section 55

The tenant requested:

- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the landlord’s 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- a determination regarding their dispute of an additional rent increase by the landlord pursuant to section 43.

Both RT and SM attended the hearing for the landlord. SM confirmed that he would be appearing as agent and representing the landlord in this hearing. While the two parties for the landlord attended the hearing by way of conference call, the tenant did not. I waited until 9:40am. to enable the tenant to participate in this scheduled hearing for 9:30 a.m. The landlord’s agent 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 two parties for 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's agent testified that he could not confirm service of the landlord's application on the tenant. Accordingly, the landlord's application is dismissed with leave to reapply. The landlord's agent confirmed receipt of the tenant's application, and wished to proceed with the issues contained in that application.

The landlord's agent testified that the tenant was served with several 10 Day Notices to End Tenancy, and a 1 Month Notice for Cause. The landlord confirmed service of the Notices contained in the tenant's application package, which include a 1 Month Notice to End Tenancy for Cause dated October 2, 2020, a 10 Day Notice dated October 20, 2020, and a 10 Day Notice dated October 21, 2020. The agent confirmed that all notices were posted on the tenant's door. In accordance with sections 88 and 90 of the *Act*, I find the notices deemed served on the tenant 3 days after posting.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the tenant entitled to the orders requested in his application?

Background and Evidence

The landlord's agent testified regarding the following facts. This tenancy began on June 18, 2020, with monthly rent currently set at \$600.00, payable on the 18th day of the month. The landlord collected a security deposit in the amount of \$300.00.

The tenant was served with several 10 Day Notices to End Tenancy for Unpaid Rent as the tenant has failed to pay the outstanding rent and utilities for this tenancy. The agent for the landlord confirmed that since the last 10 Day Notice in the tenant's application was issued, the tenant has not paid the outstanding rent.

Analysis

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.

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

Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that this tenancy ended on the effective date of the 10 Day Notices served on the tenant. The latest 10 Day Notice in the tenant's package was served on the tenant on October 21, 2020. In accordance with section 88 and 90 of the *Act*, the 10 Day Notice is deemed served on October 24, 2020, 3 days after posting. The effective date of the Notice, October 31, 2020, is corrected to November 3, 2020. As the tenant has not moved out by the corrected, effective date of that 10 Day Notice, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

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.

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: January 15, 2021

Residential Tenancy Branch

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