



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PROMPTON REAL ESTATE SERVICES
INC. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR LRE

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the Act") for:

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- an order to suspend or set conditions on the landlords' right to enter the rental unit pursuant to section 70.

While the landlord's agent, CB ("landlord"), attended the hearing by way of conference call, the tenant did not. At the outset of the hearing, I informed the landlord that I would wait until 11:10 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 am. During the 11:00 a.m. hearing I confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing.

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.

In the absence of any evidence or submissions from the applicant in this hearing, 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.

A copy of the 10 Day Notice was submitted for this hearing, and I find that the landlord's 10 Day Notice complies with section 52 of the *Act*, which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

The landlord testified that the tenant was served with the 10 Day Notice for failing to pay his monthly rent of \$2,800.00 as required by the tenancy agreement, which is payable on the first of every month. The landlord testified that the tenant has repeatedly made late rent payments, and the landlord has not provided the tenant with written permission to do so. The landlord testified that the tenant has been served with multiple 10 Day Notices for Unpaid Rent, and still does not make his rent payments on time.

I am satisfied that the evidence supports that the tenant has not paid his rent in accordance with section 26 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*, I find that this tenancy ended on the effective date of the 10 Day Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by March 18, 2021. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 55 of the *Act*.

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 landlords may enforce this Order in the Supreme Court of British Columbia.

Conclusion

The tenant's entire application is dismissed without leave to reapply.

I find that the landlord is entitled to an Order of Possession.

I grant an Order of Possession to the landlords 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: June 15, 2021

Residential Tenancy Branch