



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vernon Native Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, CNL, OLC, RP, LRE, MNDCT, FFT

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel two notices to end tenancy, an order to have the landlord make repairs; restrict access to the rental unit and a monetary order.

The hearing was conducted via teleconference and was attended by two agents for the landlord.

Pursuant to Residential Tenancy Branch Rule of Procedure 7.1 the hearing began at 1:30 on this date. Phone lines were left open for 10 minutes and the applicant tenant failed to call in or attend the hearing.

I note that because this is an Application for Dispute Resolution submitted by the tenants seeking to cancel a notice to end tenancy issued by the landlord, Section 55 of the *Residential Tenancy Act (Act)* requires I issue an order of possession to the landlord if the landlord's notice complies Section 52 of the *Act* and I either dismiss the tenant's application or uphold the landlord's notice to end tenancy.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to cancel a Two Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit; to cancel a 10 Day Notice to End Tenancy for Unpaid Rent; an order to have the landlord comply with the Act, regulation or tenancy agreement; an order to have the landlord make repairs; and an order restricting the landlord's access to the rental unit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 67, and 72 of the *Act*.

Should the tenants fail to succeed in cancelling either the Two Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit or the 10 Day Notice to End Tenancy for Unpaid Rent, it must be determined if the landlord is entitled to an order of possession, pursuant to Sections 52 and 55 of the *Act*.

Background and Evidence

The landlord submitted into evidence a copy of a tenancy agreement signed by the parties on July 27, 2021 for a month to month tenancy beginning on August 1, 2021 for a monthly economic rent of \$1159.00 due on the 1st of each month with a security deposit of \$579.50 paid.

The tenant submitted into evidence the following documents:

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on December 21, 2021 with an effective vacancy date of December 31, 2021 citing the tenant failed to pay rent in the amount of \$826.00 that was due on December 1, 2021. The tenant noted on their application they received this Notice on December 21, 2021; and
- A copy of a Two Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit issued on December 16, 2021 with an effective vacancy date of February 28, 2022 citing the tenant no longer qualifies for the subsidized rental unit. The tenant noted on their application they received this Notice on December 21, 2021

Analysis

Section 49.1 of the *Act* allows for a landlord, who is a public housing body may end a tenancy of a subsidized rental unit by giving a notice to end tenancy if the tenant ceases to qualify for the rental unit. The section goes on to say that the notice must comply with Section 52 of the *Act*.

Section 49.1(5) states that a tenant who receives a notice under this section may dispute the notice by filing an Application for Dispute Resolution within 15 days of receipt of the notice. From the tenant's Application, I accept that the tenant received this notice on December 21, 2021. As such, I find the tenant had until January 5, 2022 to file their application.

Section 49.1(6) states that if a tenant does not dispute the notice in accordance with subsection 5 the tenant is conclusively presumed to have accepted that the tenancy will end on the effective date and must vacate the rental unit.

The tenant filed their Application to dispute this Notice on December 29, 2021. Therefore, I find the tenant submitted their Application within the required time frame. However, the tenant failed to attend this hearing to present reasons why she felt the notice should be cancelled.

Rule of Procedure 7.3 states: "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 reapply."

As the tenant has failed to attend this hearing, pursuant to Rule of Procedure 7.3 I dismiss this Application for Dispute Resolution, in its entirety, without leave to reapply.

Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord; give the address of the rental unit; state the effective date of the notice, state the grounds for ending the tenancy; and be in the approved form.

I find the Two Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit issued by the landlord on December 16, 2021 complies with the requirements set out in Section 52.

Section 55(1) of the *Act* states that if a tenant applies to dispute a landlord's notice to end tenancy and their Application for Dispute Resolution **is dismissed** or the landlord's notice is upheld the landlord must be granted an order of possession if the notice complies with all the requirements of Section 52 of the *Act*.

As I have dismissed the tenants' Application for Dispute Resolution, pursuant to Section 55(1) and the Notice complies with the requirements set forth in Section 52 of the *Act*, I find the landlord is entitled to an order of possession.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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 *Residential Tenancy Act*.

Dated: March 29, 2022

Residential Tenancy Branch