



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KELSON MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **CNR, LRE, OLC**

Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (“10 Day Notice”) pursuant to section 46;
- An order to restrict or suspend the landlord’s right of entry pursuant to section 70;
- An order requiring the landlord to comply with the Act pursuant to section 62;

Attendance of Parties

DM, the agent of the landlord, attended (“the landlord”).

The tenant did not attend although I left the teleconference hearing connection open for 27 minutes to enable the tenant to call. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system the landlord and I were the only ones who had called into this teleconference.

Service

The landlord testified as follows. The tenant provided the landlord a copy of the Notice of Hearing which was taped to the building manager's door on April 23, 2022. The tenant did not provide a copy of their evidence.

Recording

The landlord testified they were not recording the hearing.

Delivery of Decision

The landlord confirmed the email address to which the Decision shall be sent.

Dismissal of Tenant's Application

Rule 7.3 of the Rules of Procedure provides that 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.

Rule 7.4 states that evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend to present evidence, any written submissions supplied may or may not be considered. Only the evidence referred to by the landlord was used in this this decision.

As the tenant has not attended the hearing and presented evidence, and the landlord has attended, I dismiss the tenant's application without leave to reapply.

Order of Possession

I informed the landlord of the following.

If I dismissed the tenant's application to cancel the Notice issued in compliance with the *Act*, I am required under section 55 of the *Act* to grant an Order of Possession in favour of the landlord.

Section 55 states 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.

Issues to be Decided

- Is the tenant entitled to:
 - Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice") pursuant to section 46;
 - An order to restrict or suspend the landlord's right of entry pursuant to section 70;
 - An order requiring the landlord to comply with the Act pursuant to section 62;
- Is the landlord entitled to an Order of Possession pursuant to Section 55(1) of the *Act*?

Background

The landlord provided uncontradicted evidence regarding the tenancy as the tenant did not attend the hearing. The landlord testified as follows.

The parties entered into monthly tenancy agreement starting March 1, 2021. Rent is \$1,325.00 payable on the first. The tenant submitted a security deposit of \$662.50 at the beginning of the tenancy which is held by the landlord.

The landlord submitted as evidence a ledger showing all payments made by the tenant from the start of the tenancy to August 2022. The landlord testified the tenant owed rent in the amount of \$3,919.00.

The tenant has not vacated the premises.

The Ten-Day Notice was dated April 8, 2022. A copy of the Notice was submitted which was in the standard RTB form. The Notice required the tenant to vacate the premises for non-payment of rent by April 22, 2022.

The landlord served the tenant by posting to the tenant's door on April 8, 2022, thereby effecting service under Section 90 on April 11, 2022.

The landlord testified the tenant did not pay the outstanding rent within the five-day period and rent subsequently accumulated despite some payment on the balance owing.

The tenant brought an Application for Dispute Resolution to cancel the Notice on April 12, 2022.

The landlord requested an Order of Possession.

The landlord did not request a Monetary Order for outstanding rent.

Analysis

To be effective, the 10 Day Notice must comply with the provisions of Section 52. I find the Ten-Day Notice complied with Section 52 of the *Act*.

I find the 10 Day Notice was properly served upon the tenant on April 11, 2022, pursuant to Sections 88 and 90 of the *Act*.

A tenant may dispute a notice under Section 46 by making an application for dispute resolution within five days after the date the tenant receives the notice. The tenant applied to dispute the Notice on April 12, 2022, within the 5-day period.

As the tenant did not attend the hearing and no evidence was entered or submissions made, I have ordered the tenant's Application for Dispute Resolution dismissed without leave to reapply.

Pursuant to Section 55(1), the director must grant to the landlord an Order of Possession of the rental unit if the landlord's notice to end tenancy complies with Section 52 and the tenant's application is dismissed.

I therefore grant the landlord an Order of Possession effective 2 days after service.

Conclusion

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

I grant the landlord an Order of Possession which is effective 2 days after service on the tenant.

The Order(s) must be served on the tenant. The Order(s) may be filed and enforced in the Courts of the Province of BC.

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: August 12, 2022

Residential Tenancy Branch