



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNR, DRI-ARI-C, OLC, AAT**

Introduction

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

1. Cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") pursuant to Sections 46(1) and 62 of the Act;
2. An Order to dispute an Additional Rent Increase for Capital Expenditures pursuant to Section 43 of the Act;
3. An Order against the Landlord to allow access to the unit for me and/or my guests pursuant to Section 70 of the Act; and,
4. An Order for the Landlord to comply with the Act, regulations, and tenancy agreement pursuant to Section 62(3) of the Act.

The hearing was conducted via teleconference. The Tenant attended the hearing at the appointed date and time and provided affirmed testimony. The Landlord did not attend the hearing. 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 that the Tenant and I were the only ones who had called into this teleconference. The Tenant was given a full opportunity to be heard, to make submissions, and to call witnesses.

I advised the Tenant that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. The Tenant testified that she was not recording this dispute resolution hearing.

The Landlord served the Tenant with the 10 Day Notice on April 16, 2022 by tucking the notice between the door and the doorframe on the Tenant's door. The Tenant confirms receipt of the 10 Day Notice. I find the 10 Day Notice was deemed served on the Tenant on April 19, 2022 according to Sections 88(g) and 90(c) of the Act.

The Tenant confirmed that she attempted to personally serve the Landlord with the Notice of Dispute Resolution Proceeding package for this hearing on April 28, 2022 (the "NoDRP package"). The Tenant stated she was outside the Landlord's front door, but the exchange ended up with an assault against the Tenant occurring. She said she dropped the NoDRP package and her next month's rent which she confirms was deposited. I find that the Landlord was sufficiently served with the NoDRP package for this hearing on April 28, 2022, in accordance with Section 71(2)(c) of the Act.

Preliminary Matters

Unrelated Claims

Prior to the Tenant's testifying, I advised her that RTB Rules of Procedure 2.3 authorizes me to dismiss unrelated claims contained in a single application. The Tenant had indicated different matters of dispute on the application, the most urgent of which is the claim to cancel the 10 Day Notice. I advised that not all of the claims on the application are sufficiently related to be determined during this proceeding; therefore, I will consider only the Tenant's request to cancel the 10 Day Notice. The Tenant's other claims are dismissed, with leave to re-apply.

At the outset of the hearing, the Tenant testified that she is vacating the rental unit on August 24, 2022. She is waiting for a friend's availability to help with moving the Tenant's belongings. The other unrelated claims that were severed in this matter, are now withdrawn by the Tenant.

Issues to be Decided

1. Is the Tenant entitled to cancellation of the Landlord's 10 Day Notice?
2. If the Tenant is unsuccessful, is the Landlord entitled to an Order of Possession?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Tenant confirmed that this oral periodic tenancy began on February 1, 2021. Monthly rent is \$520.00 payable on the first day of each month. A security deposit of \$300.00 was collected at the start of the tenancy and is still held by the Landlord. The Tenant testified that the Landlord began charging the Tenant \$830.00 per month for rent in October 2021; however, the Landlord had not provided the Tenant with a formal notice of a rent increase.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. Where a tenant applies to dispute a notice to end a tenancy issued by a landlord, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the notice to end tenancy were based.

This hearing was conducted pursuant to RTB Rules of Procedure 7.3, in the Landlord's absence, therefore, all the Tenant's testimony is undisputed. Rules of Procedure 7.3 states:

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 did not attend this hearing, although sufficiently served with the Tenant's NoDRP package. The Tenant has plans to vacate the rental unit next week. I find that the Landlord's 10 Day Notice is cancelled and the tenancy will continue until ended in accordance with the Act.

For the benefit of the Tenant, she may wish to discuss with an Information Officer at the RTB the options available to her in regards to the matters of this tenancy. An Information Officer can be reached at:

5021 Kingsway
Burnaby, BC
Phone: 250-387-1602 / 1-800-665-8779
Website: <https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies>

Conclusion

The Landlord's 10 Day Notice is cancelled and the tenancy will continue until ended in accordance with the Act.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: August 16, 2022

Residential Tenancy Branch