

DECISION

Introduction

This hearing dealt with cross applications including:

The Tenant's June 19, 2024, Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) and an extension of the time limit to dispute the 10 Day Notice under sections 46 and 66 of the Act
- cancellation of the Landlord's One Month Notice to End Tenancy for Cause (One Month Notice) under section 47 of the Act

The Landlord's June 20, 2024, Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice) under sections 46 and 55 of the Act

Service of Notice and Evidence of Dispute Resolution Proceeding (Proceeding Package)

The Landlord served the Tenant with Notice of their claim and all evidence of their claim by registered mail on June 21, 2024. I reviewed the proof of tracking, and envelope as addressed and confirmed that this package was collected by the Tenant on July 6, 2024.

I nevertheless deem the Tenant served with Notice and Evidence of the Landlord's claim on June 26, 2024, as required by 90(a) of the Act and proceeded to hear the Landlord's claim in the Tenant's absence.

The Tenant did not attend the July 22, 2024, hearing and so I dismissed their application for dispute resolution under RTB Rule of Procedure 7.3.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession on a 10 Day Notice to End Tenancy?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

The residential property is a single-family dwelling unit. The Tenants occupies the basement unit and the Landlord occupies the main floor unit.

Evidence was provided showing that this tenancy began on August 16, 2022, with a monthly rent of \$1,850.00, due on the first of the month, with \$875.00 security deposit collected.

The Landlord testified that the Tenant often pays rent late and that the Landlord receive rent by etransfer, or cash, depending on what monies the Tenant has available.

The Landlord served a 10-Day Notice to End Tenancy to the Tenant on June 2, 2024, by email and by posting the Notice to the Tenant's door on June 2, 2024. The stated move out date on this Notice is June 12, 2024, and \$1,850.00 was identified as owing on June 1, 2024.

The Landlord referred to evidence of their bank statements to confirm that the Tenant paid \$600.00 on June 17, 2024, and the remaining \$1,250.00 on June 19, 2024.

Analysis

Is the Landlord entitled to an Order of Possession?

Section 46 of the Act states that upon receipt of a 10 Day Notice, the tenant must, within five days, either pay the full amount of the arrears as indicated on the 10 Day Notice or dispute the 10 Day Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch.

I find that the 10 Day Notice was duly served to the Tenant on June 2, 2024, as required by the Act, because the Landlord testified that they spoke with the Tenant on that day when the Notice was served to the Tenant's door. I reviewed the Tenant's application for dispute resolution as well, to confirm that the Tenant acknowledged receiving the Notice on June 2, 2024.

The Tenant applied to dispute the Notice and request more time to dispute the Notice on June 19, 2024. The Tenant then failed to attend the July 22, 2024, hearing to present their claim as noted above.

I therefore dismiss the Tenant's request for more time to challenge their Notice as required by section 66 of the Act because evidence provided by the Landlord confirms that the Tenant did not pay all arrears within 5 days of receiving the Notice as permitted by 46(4) of the Act.

I therefore award the Landlord an Order of Possession under 55(1) of the Act because I find that the Notice issued by the Landlord complies with section 52 of the Act.

I also note that the Tenant is conclusively presumed to have accepted the end of this tenancy under 46(5) of the Act and was to have vacated the rental unit on June 13, 2024, the amended move out date of the 10- Day Notice dated June 2, 2024.

I made this amendment under section 53 of the Act.

In sum, I find that the Landlord is entitled to an Order of Possession.

I will use my discretion under RTB Policy Guideline 54 to make this Order effective July 31, 2024, after service on the Tenant because the Landlord indicated that rent is paid through to July 31, 2024.

Conclusion

I grant an Order of Possession to the Landlord July 31, 2024, **after service of this Order on the Tenant(s)**. Should the Tenant(s) 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.

The Tenant's application for cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) under sections 46 and 55 of the Act is dismissed, without leave to reapply.

The Tenant's application for cancellation of the Landlord's 1 Month Notice to End Tenancy for Cause under sections 47 of the Act is dismissed, without leave to reapply.

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: July 22, 2024

Residential Tenancy Branch