



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR MNDC

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67.

The Applicant (tenant) did not attend this hearing, although I waited until 10:45 am in order to enable the tenant to connect with this teleconference hearing scheduled for 10:30 am. The landlord and his agent, SA, attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

The landlord's agent, SA, testified on behalf of the landlord in this hearing and was given full authority by the landlord to do so by the landlord. SA testified that the landlord delivered the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) to the tenant in person on November 5, 2016, with an effective date of November 15, 2016. The landlord entered into written evidence a copy of that Notice. At the hearing, the landlord requested an Order of Possession if the tenant's application for cancellation of the 10 Day Notice were dismissed.

Issues(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Is the tenant entitled to a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Background

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

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 an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

The landlord testified that the tenant continues to owe rent of \$750.00 for the months of September, October, and November, 2016. The tenant has not paid the \$550.00 rent for the month of November, and owes \$100.00 each for the months of September and October. She said that the tenant has not paid anything further towards his rent since she issued the 10 Day Notice.

Analysis

In the absence of any evidence or submissions from the applicant, I order the tenant's application dismissed without liberty to reapply.

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, November 15, 2016. I find that the landlord is entitled to a 2 day Order of Possession. 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 landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

I dismiss the tenants' application for dispute resolution without leave to reapply. I issue a 2 day Order of Possession in the landlord's favour.

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: December 12, 2016

Residential Tenancy Branch