



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR, MT

Introduction

This hearing was held in response to the tenant's application for dispute resolution in which the tenant has applied to cancel a 10 day Notice to end tenancy for unpaid rent and utilities issued on December 12, 2016 and for more time to apply to cancel the Notice.

The landlord was present at the start of the hearing. The landlord was affirmed.

Issue(s) to be Decided

Is the tenant entitled to an extension of time to apply to dispute the 10 day Notice to end tenancy for unpaid rent issued on December 12, 2016?

Should the 10 Day Notice to end tenancy for unpaid rent and utilities (the Notice") issued on December 12, 2016 be cancelled?

Background and Evidence

The landlord supplied a copy of a 10 day Notice to end tenancy issued on December 12, 2016. The Notice indicated that the Notice would be automatically cancelled if the landlord received \$1,295.00 within five days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The tenant disputed the Notice on December 20, 2016. The tenants' application indicates the tenant received the Notice on December 12, 2016.

Analysis

Section 46(4) of the Act stipulates that a tenant has five days from the date of receiving the Notice ending tenancy to either pay the outstanding rent or to file an application for dispute resolution to dispute the Notice. The tenant disputed the Notice eight days after

the tenant submits the Notice was received. The tenant did not attend the conference call hearing that commenced at 10:30 a.m. and ended at 10:15 a.m.

Therefore, in the absence of the tenant, with the landlord present at the hearing, I find that the application is dismissed.

Section 55(1) of the Act provides:

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.

Therefore, as the tenants' application is dismissed I find pursuant to section 55(1) of the Act that the landlord must be issued an order of possession.

The landlord has been granted an order of possession that is effective two days after service to the tenant. This order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The application is dismissed.

The landlord is entitled to an order of possession.

This decision is final and binding and 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: January 18, 2017

Residential Tenancy Branch