



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR ERP FF RP RR

Introduction

Pursuant to section 58 of the *Residential Tenancy Act*. (the *Act*), I was designated to hear this matter. This hearing dealt with the tenant's application to:

- Cancel a landlord's 10 Day Notice to End Tenancy For Unpaid Rent ("10 Day Notice") pursuant to section 46;
- Order the landlord to comply with the *Act* pursuant section 65;
- Order the landlord to perform emergency repairs pursuant to section 33;
- Order the landlord to perform repairs pursuant to section 32; and
- Recover the filing fee from the landlord pursuant to section 72.

Analysis

While the Respondent attended the hearing by way of conference call, the Applicant did not, although I waited until 11:15 A.M. in order to enable the Applicant to connect with this teleconference hearing scheduled for 11:00 A.M. The Respondent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

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.

Analysis

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'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.*

Based on the 10 Day Notice entered as written evidence and the landlord's sworn testimony, I find that the landlord's 10 Day Notice complies with section 52 of the *Act*. The tenant's failure to attend this hearing and present evidence relating to his application leads me to order that his application to cancel the 10 Day Notice is dismissed without liberty to reapply.

Based on my decision to dismiss the tenant's application for dispute resolution and my finding that the landlord's 10 Day Notice complies with section 52 of the *Act*, I find that this tenancy ended on the effective date of the 10 Day Notice, January 13, 2017, and the landlord is entitled to an Order of Possession.

Conclusion

The landlord is provided with a formal copy of an Order of Possession effective 2 days after service. Should the tenant fail to comply with this Order, this Order may be enforced as an Order of the Supreme Court of British Columbia.

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: January 27, 2017

Residential Tenancy Branch

