



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR

Introduction

This hearing was set for a telephone conference call at 9:00 a.m. in response to the Tenant's Application for Dispute Resolution (the "Application") made on June 15, 2017. The Tenant applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice"). The Landlord and his wife appeared for the hearing and provided affirmed testimony as well as documentary evidence prior to the hearing. However, there was no appearance for the Tenant during the 20 minute hearing and no submission of evidence prior to the hearing. The Landlord testified that he had been served with the Tenant's Application.

The Landlord testified that the Tenant was served with multiple 10 Day Notices which the Landlord did not act on as he wanted to give opportunity to pay rent. The Tenant had not indicated on her Application or in any evidence which 10 Day Notices she was disputing. However, the Landlord explained that the latest 10 Day Notice served to the Tenant before she filed the Application was the one dated June 7, 2017. The Landlord provided the 10 Day Notice dated June 7, 2017 into evidence. It details a vacancy date of June 17, 2017 and rental arrears of \$1,310.00 at that time. The Landlord testified that he served this 10 Day Notice by posting it to the Tenant's door on June 7, 2017 and that the date of service on the 10 Day Notice showing June 17, 2017 was a clerical error. The Landlord testified that since being served with that 10 Day Notice, the Tenant has paid partial rent but still remains in rental arrears of \$1,585.00. Therefore, the Landlord now seeks an Order of Possession to end the tenancy.

Preliminary Findings

Rule 7.3 of the Residential Tenancy Branch Rules of Procedure state that 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. As the Tenant failed to appear for the hearing and present the merits and reasons to dispute the 10 Day Notice, and the Landlord appeared and was ready to proceed, I dismissed the Tenant's Application without leave to reapply.

Section 55(1) of the Act provides that if a tenant makes an Application to dispute a landlord's notice to end a tenancy, the director must grant an order of possession to the landlord if the notice to end tenancy complies with Section 52 of the Act. I have examined the 10 Day Notice dated June 7, 2017 provided by the Landlord into evidence. I find the Landlord used the approved form, and the contents within comply with Section 52 of the Act.

As the Tenants' Application has been dismissed, I must now grant the Landlord an Order of Possession pursuant to Section 55(1) of the Act. In consideration of when the Order of Possession is to take effect, the vacancy date on the 10 Day Notice has now passed and the evidence before me is that the Tenant is still occupying the rental unit without paying rent. Therefore, the Landlord is entitled to an Order of Possession which is effective two days after service on the Tenant. Copies of this order are attached to the Landlord's copy of this Decision. This order may be filed and enforced in the BC Supreme Court as an order of that court if the Tenant fails to vacate the rental unit. The Tenant may also be held liable for any enforcement costs incurred by the Landlord to obtain vacant possession of the rental unit.

Conclusion

The Tenants' Application is dismissed **without** leave to re-apply as they failed to appear for the hearing and present the merits of the Application. The Landlord is granted a two day Order of Possession. 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 30, 2017

Residential Tenancy Branch