



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, ERP

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") to cancel a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated September 14, 2018 ("10 Day Notice") and for an order for emergency repairs for health or safety reasons.

The landlord attended the teleconference hearing. The hearing was held by telephone conference call and began promptly at 9:30 a.m., Pacific Time, on this date November 1, 2018. The line remained open while the phone system was monitored for 12 minutes and the only participant who called into the hearing during this time was the landlord. As the applicant tenant did not attend the hearing and after the ten minute waiting period at 9:40 a.m. Pacific Time, the tenant's application was **dismissed without leave to reapply**. As the tenant did not attend the hearing, I consider the 10 Day Notice to be undisputed.

Preliminary and Procedural Matter

The landlord agent confirmed that they did not have an email address at the outset of the hearing. Therefore, the landlord was advised that the decision and any applicable order(s) would be sent by regular mail to the applicable party. The decision will be sent by email to the tenant who provided an email address in their application but did not attend the hearing.

Background and Evidence

The landlord affirmed that the 10 Day Notice was served on the tenant by posting to the tenant's door on September 14, 2018 and was missing an effective vacancy date. The amount listed as owed was \$2,400.00 due June 1, 2018. The landlord stated that the tenant has failed to pay any rent and that the rental unit remains occupied. The landlord is seeking an order of possession as soon as possible.

Analysis

Based on the undisputed documentary evidence and the unopposed testimony provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant failed to attend the hearing, I dismiss the tenant's application in full without leave to reapply as the tenant has failed to attend the hearing to present the merits of their application.

The landlord agent testified that the rental unit remains occupied and the tenant still has not paid rent as required. Section 55 of the *Act* states:

Order of possession for the landlord

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.**

[My emphasis added]

In reviewing the 10 Day Notice, I apply section 68(1) of the *Act* which states:

Director's orders: notice to end tenancy

68 (1) If a notice to end a tenancy does not comply with section 52 [*form and content of notice to end tenancy*], **the director may amend the notice if satisfied that**

(a) **the person receiving the notice knew, or should have known, the information that was omitted from the notice, and**

(b) **in the circumstances, it is reasonable to amend the notice.**

[My emphasis added]

I find that that the tenant would know or ought to have known that the effective vacancy date was 10 days after receipt of the 10 Day Notice. Therefore, I find it reasonable to amend the 10 Day Notice to include an effective vacancy date of September 27, 2018. I have used this date as the 10 Day Notice was posted to the door on September 14, 2018 according to the landlord, and section 90 of the *Act* states that documents that are posted to the door are deemed served three days later, which would be September 17, 2018.

Given the above and having considered that the effective vacancy date has passed and that the amended 10 Day Notice complies with section 52 of the *Act*, and pursuant to section 55 of the *Act*, I must grant an order of possession. Therefore, I grant the landlord an order of possession effective **two (2) days** after service on the tenant. I find the tenancy ended on September 27, 2018 which was the amended effective vacancy date listed on the 10 Day Notice.

Conclusion

The tenant's application is dismissed without leave to reapply as the tenant failed to attend the hearing as scheduled.

The tenancy ended on September 27, 2018.

The landlord has been granted an order of possession effective two (2) days after service on the tenants and this order of possession applies to all occupants of the rental unit. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The decision will be emailed to the tenant and sent by regular mail to the landlord.

This decision is final and binding on the parties, except as otherwise provided under the *Act*, 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: November 1, 2018

Residential Tenancy Branch