



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Brentview Developments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, RP, DRI, OPR, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on January 15, 2020 for:

1. An Order cancelling a notice to end tenancy - Section 46;
2. An Order for repairs - Section 32; and
3. A dispute of a rental increase - Section 43.

The Landlord applied on January 28, 2020 for:

1. An Order of Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

Preliminary Matters

The Tenant did not appear on the conference call hearing. I accept the Landlord’s evidence that the Tenant was served with the Landlord’s application for dispute resolution, notice of hearing and all evidence in person on January 30, 2020 in accordance with Section 89 of the Act. As the Tenant did not attend to pursue its own application, I dismiss the Tenant’s application. The Landlord was given full opportunity under oath to be heard, to present evidence and to make submissions.

It is noted that the Landlord provided a copy of an amendment to its application as evidence to the Residential Tenancy Branch (the “RTB”). The Landlord confirms that it

did not file the amendment with the RTB at either the RTB offices or a service BC location.

Section 64 of the Act provides that an amendment to an application may be made or allowed without consent, subject to the rules of procedure. Section 4.1 of the RTB Rules of Procedure (the “Rules”) provides that an application may be amended prior to the date of the hearing by submitting an amended copy of the application directly to the RTB or through a Service BC office. An amendment is not properly made by merely serving it as evidence. As the Landlord did not amend the application as required under the Rules, I find that the present application may not be amended. The Landlord remains at liberty to make an application for unpaid rent.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy under written agreement started with a different landlord on October 1, 2019. The tenancy agreement provides that rent of \$1,700.00 is payable monthly on the first day of each month. The rental unit was purchased by the current Landlord who continues to hold a security deposit of \$725.00 and a pet deposit of \$250.00 that was paid at the outset of the tenancy. The Tenant failed to pay the full rent for January 2020 and on January 10, 2020 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the “Notice”) by posting the Notice on the door. The Tenant has not moved out of the unit and has not paid the arrears or the rent for February 2020. The Landlord seeks an order of possession for as early as possible.

Analysis

Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's

application is dismissed or the landlord's notice is upheld. Section 52 of the Act provides that in order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

Given that the required form and content is contained on the Notice and given the dismissal of the Tenant's application I find that the Landlord is entitled to an order of possession. As the Landlord's claim has been successful, I find that the Landlord is also entitled to recovery of the \$100.00 filing fee. I order the Landlord to deduct this amount from the security deposit of \$725.00 plus zero interest in full satisfaction of this claim.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the RTB under Section 9.1(1) of the Act.

Dated: February 21, 2020

Residential Tenancy Branch