



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding STEWART IMPORTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR-MT, OLC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 66;
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony and to make submissions. The parties confirmed that they had exchanged their documentary evidence.

Preliminary Issue- More time to file an application

The landlord issued the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on September 26, 2020 by registered mail. Section 90 of the *Act* deems it served on the fifth day after being sent, in this case October 1, 2020. The tenant filed their application on October 5, 2020; within the legislated timeline, therefore an extension of time is not needed.

Issue(s) to be Decided

Is the tenant entitled to have the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities cancelled? If not, is the landlord entitled to an order of possession?
Should an order be given to compel the landlord to comply with the *Act*, regulation or tenancy agreement?

Background and Evidence

The landlord gave the following testimony. The tenancy began on May 1, 2010 with the current monthly rent of \$1352.26 due on the first of each month. The landlord testified that the tenant has not paid any rent since September 2019. The landlord testified that due to her long tenure, they attempted to work with her and devise a plan to assist, however the tenant only paid \$500.00 in September 2020. The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on September 26, 2020 for unpaid rent prior to COVID-19. The landlord requests an order of possession.

The tenant gave the following testimony. The tenant testified that she has been unable to pay the rent since September 2019 due to her losing work, not being paid for the work she had done, her bank accounts being frozen due to her daughter committing fraud, family illness and COVID-19. The tenant testified that she was unaware of any programs to assist her in paying the rent. The tenant does not dispute that she owes “well over ten thousand dollars” but stated that she will pay it back as soon as she gets the \$45,000.00 owed to her for work that she has done from her former employer.

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 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.

The tenant did not dispute the amount of rent owed or any portion of the landlord's testimony. I find that the landlord has provided sufficient evidence to confirm the notice to end tenancy. I further find that the 10 Day Notice complies with section 52 of the *Act*. The tenant's application is dismissed in its entirety without leave to reapply.

Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that this tenancy ended on the corrected effective date of the 10 Day Notice, October 11, 2020. I find that the landlords are entitled to a 2-day Order of Possession. The landlords will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

Conclusion

The landlord is granted an order of possession. The tenancy is terminated.

The tenant's application is dismissed in its entirety without leave to reapply.

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: December 14, 2020

Residential Tenancy Branch