



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANCOUVER EVICTION SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF, CNR

Introduction

This hearing considered cross-applications pursuant to the *Residential Tenancy Act* (the “Act”).

The tenants seek:

- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) pursuant to section 46;

The landlords seek:

- an Order of Possession for unpaid rent pursuant to section 55;
- a Monetary Order for unpaid rent and damages pursuant to section 67;
- authorization to retain the security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, which lasted approximately 10 minutes. The landlords attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. SA, the agent for the corporate landlord (the “landlord”) primarily gave testimony.

The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”), dated April 18, 2017 was served personally on the tenants on April 19, 2017. I find that the tenants were duly served with the 10 Day Notice in accordance with section 88 of the *Act*.

The landlord testified that the landlord's application for dispute resolution dated April 21, 2017 was sent to the tenants by registered mail on April 29, 2017 together with the landlords' evidentiary materials. The landlord provided two Canada Post tracking numbers as evidence of service. In accordance with sections 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's application package on May 4, 2017, five days after its mailing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to monetary compensation as claimed?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This tenancy began in December, 2016. The current rent is \$950.00 payable on the 1st of the month. A security deposit of \$500.00 was paid by the tenants at the start of the tenancy and still held by the landlords.

The landlord testified that at the time the 10 Day Notice was issued the tenancy was in arrears by \$950.00, the amount sought in the 10 Day Notice. The landlord testified that the tenant has not made payment since the 10 Day Notice was issued. The amount of arrear for this tenancy is \$1,900.00 as at the date of the hearing.

Analysis

The tenants did not attend the hearing which was scheduled by conference call at 11:00am. Rule 7.3 of the Rules of Procedure provides 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.

Consequently I dismiss the tenants' application without leave to reapply.

Section 55 of the *Act* provides that:

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.

As I have dismissed the tenants' application, and I find that the landlords' 10 Day Notice complies with the form and content requirements of section 52 as it is signed and dated by the landlord, provide the address of the rental unit, the effective date of the notice, and the grounds for the tenancy to end, I find that the landlords are entitled to an Order of Possession pursuant to section 55. As the effective date of the notice has passed, I issue an Order of Possession effective two (2) days after service.

I find that the tenants were obligated to pay the \$950.00 monthly rent. I accept the landlords' undisputed evidence that the total amount of arrears for this tenancy is \$1,900.00. I issue a monetary award in the landlords' favour for unpaid rent of \$1,900.00 as at May 31, 2017, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlords' application was successful, the landlords are also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlords to retain the tenants' security deposit of \$500.00 in partial satisfaction of the monetary award issued in the landlords' favour.

Conclusion

I dismiss the tenants' application.

I grant an Order of Possession to the landlords effective **2 days after service on the tenant**. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlords' favour in the amount of \$1,500.00 under the following terms, which allows the landlords to recover unpaid rent and the filing fee for their application:

Item	Amount
Unpaid Rent April	\$950.00
Unpaid Rent May	\$950.00
Filing Fees	\$100.00
Less Security Deposit	-\$500.00

Total Monetary Order	\$1,500.00
-----------------------------	-------------------

The tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: May 31, 2017

Residential Tenancy Branch