



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

Tenant:	CNR
Landlord:	OPR, MNR, MNDS MNDC, ET, FF

Introduction

This hearing was convened in response to cross applications by both parties pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows. The tenant's un-amended application filed May 19, 2017 seeks:

1. To Cancel a Notice to End for Unpaid Rent - Section 46

The landlord's un-amended application filed June 06, 2017 seeks:

1. An Order of Possession due to unpaid rent - Section 55
2. A Monetary Order for unpaid rent - Section 67
3. A Monetary Order for Loss- Section 67
4. For an Early End to tenancy and Order of Possession – section 56
5. An Order to recover the filing fee for this application - Section 72

The applicant tenant was provided with a copy of the Notice of a Dispute Resolution Hearing dated May 19, 2017 after filing their application. The tenant, however, did not attend the hearing set for today at 11:00 a.m. The phone line remained open during the hearing of 20 minutes and was monitored throughout this time. The only party to call into the hearing was the landlord. As a result, the tenant's application is preliminarily dismissed.

I accept the landlord's evidence that the tenant was personally served and further by posting on their door the application for dispute resolution and notice of hearing as well as their evidence. The landlord was given opportunity to be heard, to present evidence and to make submissions. The landlord testified the tenant still resides in the unit.

The landlord seeks compensation of losses for which they did not file amendment to their application. As a result these portions of their application are dismissed with leave to reapply.

As well, the landlord sought an early end to the tenancy which is a stand-alone application and incompatible with the landlord's other claims on application, and therefore effectively irrelevant and preliminarily dismissed.

The landlord further applies for recovery of their filing fee which the landlord has not paid, and therefore effectively preliminarily dismissed.

The hearing proceeded on the merits of the remainder of the landlord's claims.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began April 22, 2017. Rent in the amount of \$1500.00 is payable in advance on the first day of each month as of May 01, 2017. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$750.00 which they retain in trust. The tenant failed to pay rent in the month of May 2017 and on May 15, 2017 the landlord served the tenant with a notice to end tenancy for non-payment of rent stating the tenant owed rent of \$1500.00. The tenant applied to dispute the notice but did not / has not paid the rent. The tenant further failed to pay rent in the month of June, and has not paid the rent when due for July 2017.

Analysis

Based on the landlord's evidence I find that the tenant was served with a notice to end tenancy for non-payment of rent and utilities and I find the notice to be valid. The tenant has not paid the outstanding amounts of rent despite their application to dispute the landlord's Notice, and further did not attend the hearing to defend their application – with the result that their application has been dismissed.

Based on the above facts I find that the landlord is entitled to an Order of Possession.

I also find that the landlord has established a monetary claim for unpaid rent. I grant the landlord the unpaid rent for May and June 2017. I grant the landlord one half month's rent for July 2017, with leave to reapply for the balance of July rent if they are unable to mitigate a revenue loss. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

Unpaid rent May 2017	\$1500.00
Unpaid rent June 2017	\$1500.00
Unpaid rent July 1 – 15, 2017	\$750.00
<i>Less Security Deposit in trust</i>	<i>-\$750.00</i>
Total Monetary Award / landlord	\$3000.00

Conclusion

The tenant's application is dismissed, without leave to reapply.

The landlord's application is granted, in relevant part, and the balance dismissed, or dismissed with leave to reapply, as indicated.

I grant an Order of Possession to the landlord **effective 2 days** from the day it is served on the tenant. 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.

I Order that the landlord retain the security deposit of \$750.00 in partial satisfaction of the claim and **I grant** the landlord an Order under Section 67 of the Act for the balance due of **\$3000.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding.

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: July 06, 2017

Residential Tenancy Branch