



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CARIBOO GARDEN APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing dealt with applications from both the tenants and landlords pursuant to the Residential Tenancy Act (the “Act”).

The tenants applied for:

- An order allowing more time to make an application to cancel the landlords’ 10 Day Notice to End Tenancy for Unpaid rent pursuant to section 66; and
- Cancellation of the landlords’ 10 Day Notice pursuant to section 46.

The landlords, originally applied through the Direct Request process in which a decision is made based solely on the written evidence submitted by the landlord, for:

- an Order of Possession for unpaid rent pursuant to section 55; and
- a Monetary Order for unpaid rent pursuant to section 67.

The tenants did not attend this hearing, which lasted approximately 10 minutes. The individual landlord (the “landlord”) attended the hearing, confirmed she represented both herself and the corporate landlord and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”), was served on the tenants by posting on the rental unit door on June 2, 2017. In accordance with sections 88 and 90 of the Act, I find that the tenants were deemed served with the landlord’s 10 Day Notice on June 5, 2017, three days after posting.

At the outset of the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlord indicated that since the application was filed the tenant has failed to pay the rent for additional months and the total arrears as of the date of the hearing is \$1,800.00. As the increase in amount of rent owing can be reasonably anticipated, pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure I amend the landlord's Application to increase the landlord's monetary claim from \$600.00 to \$1,800.00.

Issue(s) to be Decided

Are the tenants entitled to more time to file their application?

Should the landlords' 10 Day Notice be cancelled? If not, are the landlords entitled to an Order of Possession for unpaid rent?

Are the landlords entitled to monetary compensation as claimed?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This tenancy began December, 2016. The rent is \$600.00 payable on the first of the month. A security deposit of \$300.00 was paid by the tenants at the start of the tenancy and is still held by the landlords.

The landlord testified that at the time the 10 Day Notice was issued the tenancy was in arrears by \$600.00, the amount initially sought in the 10 Day Notice. The landlord testified that the tenant subsequently failed to pay the rent owed for the months of June and July, and the total amount owing for the tenancy as of August 22, 2017, the date of the hearing, is \$1,800.00.

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 \$600.00 monthly rent. I accept the landlords' undisputed evidence that the total amount of arrears for this tenancy is \$1,800.00. I issue a monetary award in the landlords' favour for unpaid rent of \$1,800.00 as at August 22, 2017, the date of the hearing, pursuant to section 67 of the *Act*.

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 \$300.00 in partial satisfaction of the monetary award issued in the landlords' favour.

Conclusion

I dismiss the tenant's 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:

Item	Amount
Unpaid Rent May	\$600.00
Unpaid Rent June	\$600.00
Unpaid Rent July	\$600.00
Less Security Deposit	-\$300.00
Total Monetary Order	\$2,400.00

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: August 22, 2017

Residential Tenancy Branch