



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FFT, LAT, LRE, PSF, FFL, MNDCL, MNRL, OPR

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlords requested:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

The tenant requested:

- cancellation of the landlords’ 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order to suspend or set conditions on the landlord’s right to enter the rental unit pursuant to section 70; and
- authorization to recover the filing fee for this application, pursuant to section 72.

While the landlord attended the hearing by way of conference call, the tenant did not .The landlords were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

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.

The landlord gave sworn testimony that on October 28, 2018 copies of the Application for Dispute Resolution hearing package ('Application') and evidence were personally served to the tenant. In accordance with sections 88 and 89 of the *Act*, I find that the tenant was duly served with copies of the landlords' application and evidence.

The landlord provided undisputed testimony that the tenant was served with the 10 Day Notice, with a corrected effective date of October 7, 2018, by way of personally serving the tenant. I find that the tenant was duly served with the 10 Day Notice on June September 27, 2018. The tenant filed an application the same day to dispute the notice but chose not to attend, accordingly; I dismiss the tenants' application in its entirety without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the 10 Day Notice?
 Is the landlord entitled to a monetary award for unpaid rent or money owed under the tenancy agreement, regulation, or *Act*?
 Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

The landlord gave **undisputed testimony** regarding the following facts. This verbal tenancy began on July 1, 2018, with monthly rent set at \$1800.00 plus \$220.00 for utilities, payable on the first of each month. The tenant continues to reside in the rental unit.

The landlord issued the 10 Day Notice on September 27, 2018 to the tenant, indicating an effective move-out date of October 6, 2018. A copy of the 10 Day Notice was included in the landlord's evidence as well. The landlords testified that the tenant has not paid any rent or utilities since the 10 Day Notice were issued to the tenant.

The landlords are seeking an Order of Possession, as well as a Monetary Order for \$6,160.00 as outlined in the table below and in the landlords' Application:

Item	Amount
Unpaid Rent September – November	5400.00
Unpaid Utilities September - November	660.00
Filing Fee	100.00
Total Monetary Order Requested	\$6160.00

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.

In the absence of any evidence or submissions from the tenant, I order the tenant's application dismissed without liberty to reapply. I find that the 10 Day Notice complies with section 52 of the *Act*.

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 7, 2018. I find that the landlord is entitled to a 2 day Order of Possession. The landlord 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 landlord may enforce this Order in the Supreme Court of British Columbia.

The landlord provided undisputed evidence that the tenant failed to pay the rent and utilities in full for the months of September 2018 through to November 2018. Therefore, I find that the landlords are entitled to \$6060.00 in arrears for the above period.

I find that the landlord is entitled to recovery the \$100.00 filing fee from the tenant.

Conclusion

As the tenant did not attend this hearing, their entire application is dismissed without leave to reapply.

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenants**. Should the tenant 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 \$6,160.00 Monetary Order in favour of the landlord under the following terms, which allows the landlords to recover unpaid rent, utilities and the filing fee:

Item	Amount
Unpaid Rent September – November	5400.00
Unpaid Utilities September - November	660.00
Filing Fee	100.00
Total Monetary Order Requested	\$6160.00

The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) 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: November 19, 2018

Residential Tenancy Branch