



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

<u>Dispute Codes</u>	Landlord:	MNDC MNR OPR MNSD FF
	Tenant:	CNR LRE PSF MNDC

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”).

The Landlord’s Application for Dispute Resolution was made on May 14, 2019, and was amended on June 4, 2019 (the “Landlord’s Application”). The Landlord applied for the following relief, pursuant to the *Act*:

- a monetary order for money owed or compensation for damage or loss;
- a monetary order for unpaid rent or utilities;
- an order of possession for unpaid rent or utilities;
- an order permitting the Landlord to retain the security deposit in partial satisfaction of the claim; and
- an order granting recovery of the filing fee.

The Tenant’s Application for Dispute Resolution was made on May 7, 2019 (the “Tenant’s Application”). The Tenant applied for the following relief, pursuant to the *Act*:

- an order cancelling a notice to end tenancy for unpaid rent or utilities;
- an order setting or suspending conditions on the Landlord’s right to enter the rental unit;
- an order that the Landlord provide services or facilities required by the tenancy agreement or law; and
- a monetary order for money owed or compensation for damage or loss.

The Landlord attended the hearing at the appointed date and time, and provided affirmed testimony. The Tenant did not attend the hearing. Therefore, the Tenant's Application is dismissed, without leave to reapply.

During the hearing, the Landlord initially testified that all documents were served on the Tenant by posting a copy to the door of the Tenant's rental unit. When questioned further, the Landlord testified these documents were not served on the Tenant as he believed the Residential Tenancy Branch would do so. When the consequences of failing to serve the Tenant in accordance with sections 89 of the *Act* were explained, the Landlord clarified that all documents were served on the Tenant, although no documentary evidence in support of service was referenced.

In light of the conflicting evidence regarding service of the Application package and amendment on the Tenant, and the lack of documentary evidence in support of service, I find that the Landlord's monetary claims are dismissed. However, as the Tenant did not attend the hearing, the Landlord is granted leave to reapply for this relief at a later date.

In addition, the Tenant's Application confirms a request to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated May 2, 2019 (the "10 Day Notice"), a copy of which was submitted into evidence. However, the Tenant's Application has been dismissed, without leave to reapply. When a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I grant an order of possession to a landlord. Having reviewed the 10 Day Notice submitted into evidence, I find it complies with section 52 of the *Act*. Accordingly, pursuant to section 55 of the *Act*, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

Having been successful, and pursuant to section 72 of the *Act*, I grant the Landlord a monetary order in the amount of \$100.00 in recovery of the filing fee paid to make the Landlord's Application.

Conclusion

The Tenant's Application is dismissed, without leave to reapply.

Pursuant to section 55 of the *Act*, the Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$100.00. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: June 21, 2019

Residential Tenancy Branch