



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MEICOR PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNRL-S OPR-DR CNR MNDCT MT OT PSF

Introduction

This hearing dealt with applications from both the landlord and the tenant under the *Residential Tenancy Act* (the *Act*).

The landlord applied for:

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

The tenant applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- a monetary award for damages and loss pursuant to section 67;
- more time to file their application to cancel the 10 Day Notice pursuant to section 66;
- other relief; and
- an order that the landlord provide services or facilities pursuant to section 65.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The corporate landlord was represented by its agent (the "landlord") and property owner who attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that they served the 10 Day Notice on the tenant on September 3, 2019 by posting on the rental unit door. In accordance with section 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 10 Day Notice on September 6, 2019, three days after posting.

The landlord testified that they served the landlord's application for dispute resolution dated September 12, 2019 and evidence on the tenant by registered mail sent on September 18, 2019. The landlord provided a valid Canada Post tracking number as evidence of service. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application and evidence on September 23, 2019, five days after its mailing.

The landlord filed an amendment to their application on October 16, 2019 and served it on the tenant by registered mail sent on that date. The landlord provided a valid Canada Post tracking number as evidence of service. Based on the evidence I find that the tenant was deemed served with the landlord's amendment in accordance with sections 89 and 90 of the *Act* on October 21, 2019, five days after mailing.

Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession?
- Is the landlord entitled to a monetary award as claimed?
- Is the landlord entitled to recover the filing fee from the tenant?
- Is the tenant entitled to any of the relief sought?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. Monthly rent for this periodic tenancy which began in August 2019 is \$1,250.00 payable on the first of each month. A security deposit of \$600.00 was paid by the tenant and is still held by the landlord.

The landlord testified that at the time the 10 Day Notice was issued the tenancy was in arrear by \$1,300.00 as the tenant underpaid by \$50.00 for August, 2019 and failed to pay any rent for September, 2019. The 10 Day Notice indicates a rental arrear of \$1,300.00 for and also notes that the tenant has failed to pay the full amount of the security deposit owed at the start of the tenancy. The landlord testified that the tenant has made no payment against the arrears and has failed to pay any rent for the months of October and November, 2019. The landlord testified that the rental arrear as of the date of the hearing is \$3,800.00.

Analysis

The tenant 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, as the tenant failed to attend the hearing at its scheduled time, I dismiss the tenant's application in its entirety 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 tenant's application, and I find that the landlord's 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 landlord is 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 tenant was obligated to pay the \$1,250.00 monthly rent. I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$3,800.00. While the landlord additionally seeks the amount of \$25.00 for unpaid security deposit, I find that is not a loss that is owing but simply a term of the tenancy agreement that the tenant has violated. I issue a monetary award in the landlord's favour for unpaid rent of \$3,800.00 as at November 28, 2019, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlord's application was successful the landlord is entitled to recover the filing fee.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security deposit of \$600.00 in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

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

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. 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 monetary order in the landlord's favour in the amount of \$3,300.00, under the following terms, which allows the landlords to recover unpaid rent and filing fee for their application and retain the security deposit :

Item	Amount
Unpaid Rent August	\$50.00
Unpaid Rent September	\$1,250.00
Unpaid Rent October	\$1,250.00
Unpaid Rent November	\$1,250.00
Filing Fee	\$100.00
Less Security Deposit	-\$600.00
Total Monetary Order	\$3,300.00

The tenant must be served with this Order as soon as possible. Should the tenant 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 28, 2019

Residential Tenancy Branch