



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes OPR – DR, OPRM-DR, FFL, CNR, OLC

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; and
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62.

While the landlords attended the hearing by way of conference call, the tenant did not. I waited until 9:40 a.m. to enable the tenant to participate in this scheduled hearing for 9:30 a.m. 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 landlords gave sworn testimony that on June 29, 2017 copies of the Application for Dispute Resolution hearing package ('Application') and evidence were served to the tenants by registered mail on March 25, 2020. In accordance with sections 88 and 89 of the *Act*, I find that the tenants were deemed served with copies of the landlords' application and evidence on March 30, 2020, five days after mailing.

Issue(s) to be Decided

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

Background and Evidence

The landlords gave undisputed testimony regarding the following facts. The tenancy began on June 15, 2017, with monthly rent set at \$1413.00, payable on the first of each month. The landlords collected, and still hold, a security deposit of \$675.00 and a pet deposit of \$675.00. The tenants continue to reside in the rental unit.

The landlord issued the 10 Day Notice to the tenants by posting the notice on the door on March 4, 2020. A copy of the 10 Day Notice was included in the landlord's evidence as well as a Proof of Service. The landlords testified that the tenants have not paid any rent since the 10 Day Notice was issued to the tenants. The tenants failed to pay \$1243.00 for the month of March and \$1413.00 for April.

The landlords seek the following:

Item	Amount
Unpaid Rent for March	\$1243.00
Unpaid Rent for April	1413.00
Filing Fee	100.00
Total Monetary Order Requested	\$2756.00

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, March 17, 2020. I find that the landlords are entitled to a 2 day Order of Possession. The landlords 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 landlords may enforce this Order in the Supreme Court of British Columbia.

I further find that that the landlords have provided undisputed testimony and documentation that shows the tenants still owe the landlord \$2756.00 in unpaid rent.

The landlords continue to hold the tenant's security and pet deposits in the amount of \$1,350.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain the tenant's security deposit in partial satisfaction of the monetary claim.

I find that the landlords are 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 landlords 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 \$1406.00 Monetary Order in favour of the landlords under the following terms, which allows the landlords to recover unpaid rent and the filing fee, and also allows the landlords to retain the tenant's security deposit:

Item	Amount
Unpaid Rent for March	\$1243.00
Unpaid Rent for April	1413.00
Filing Fee	100.00
Minus Security Deposit	-675.00
Minus Pet Deposit	-675.00
Total Monetary Order Requested	\$1406.00

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: April 21, 2020

Residential Tenancy Branch