



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the landlord: OPR MNDL-S MNRL-S FFL
For the tenant: CNR-MT MNDCT RP FFT

Introduction

This hearing was convened as a result of an Application for Dispute Resolution (application) by both parties seeking remedy under the *Residential Tenancy Act* (the Act). The landlord applied for an order of possession based on unpaid utilities, for a monetary order for unpaid rent or utilities, for damages to the unit, site or property, for authorization to retain all or part of the tenant's security deposit, and to recover the cost of the filing fee. The tenant applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 27, 2020 (10 Day Notice), for more time to make an application to dispute a 10 Day Notice, for a monetary claim for damage or loss under the Act, regulation or tenancy agreement, for the return of personal property and to recover the filing fee.

The landlord and the brother/agent for the tenant AI (agent) attended the teleconference hearing. The hearing process was explained to the parties, and the parties were given an opportunity was given to ask questions about the hearing process. Thereafter the parties gave affirmed testimony, were provided the opportunity to present their relevant evidence orally and in documentary form prior to the hearing and make submissions to me.

Both parties confirmed receiving the documentary evidence package from the other party prior to the hearing, and that they had the opportunity to review that evidence prior to the hearing. I find the parties were sufficiently served in accordance with the Act. Both parties confirmed that they had been served with the application from the other party.

I have reviewed all evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, only the evidence relevant to the issues and findings in this matter are described in this decision. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters

Rule 2.3 of the RTB Rules authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances both parties indicated several matters of dispute on their respective applications, the most urgent of which I find to be to determine if the tenancy is going to continue and any unpaid rent. I find that not all the claims in the applications before me are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request to set aside the 10 Day Notice and their filing fee, and the landlord's request for an order of possession for unpaid rent or utilities, for unpaid rent, and to their filing fee. The balance of the applications before me are **dismissed, with leave to re-apply**. In other words, I am not considering the landlord's application for damages, which I find is premature as the tenancy has not yet ended, and the tenant's monetary claim, which is not closely enough related to the unpaid rent claim before me.

The parties were advised that the decision would be emailed to the parties at the email addresses confirmed during the hearing. Any orders will be emailed to the appropriate party for service on the other party.

Issues to be Decided

- Should the 10 Day Notice be cancelled or upheld?
- Is the landlord entitled to a monetary order under the Act for unpaid rent, and if so, in what amount?
- Is either party entitled to the return of their filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement(s) was submitted in evidence. During the hearing, the parties reached a mutually settled agreement pursuant to section 63 of the Act.

Mutually Settled Agreement

The parties agreed on the following mutually settled agreement during the hearing:

1. The parties agree that \$5,320.00 is owing by the tenant to the landlord for unpaid rent up to and including May 29, 2020. This amount includes \$300.00 owing for March 2020, \$2,460.00 owing for April 2020 and \$2,460.00 owing for May 2020.
2. The parties agree that the tenant will make the following payments to the landlords:
 - A. \$1,750.00 by May 31, 2020
 - B. \$1,750.00 by June 15, 2020
 - C. \$2,460.00 by July 15, 2020
 - D. \$2,460.00 by August 15, 2020
 - E. \$2,460.00 by September 1, 2020
 - F. \$4,280.00 lump sum for arrears by September 30, 2020
3. The landlord is granted an order of possession effective **five (5) days** after service on the tenant under section 55 of the Act, which the landlord agrees not to enforce if the tenant complies with all payments listed in #2 above by September 30, 2020 by 5:00 p.m. Pacific Time.
4. The landlord is granted a monetary order in the amount of **\$5,320.00**, which accounts for unpaid rent and the filing fee up to May 31, 2020.

This settlement agreement was reached in accordance with section 63 of the Act. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the binding nature of this full and final settlement of these matters.

Conclusion

I order the parties to comply with their mutually settled agreement described above.

The landlord has been granted an order of possession effective five (5) days after service on the tenant. Should the landlord require enforcement of the order of possession, the tenant must be served with the order of possession and the order of possession may be filed in the Supreme Court of British Columbia to be enforced as an order of that court. As per above, the landlord agrees not to enforce the order of possession if the tenant complies with #2 above and makes all payments to the landlord as described above in #2.

The landlord has established a total monetary claim of \$5,320.00, as described above.

Prior to enforcement of the monetary order, this order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

The filing fee for the tenant is not granted as this matter was resolved by mutual agreement and I find the landlord has made concessions regarding rent and that the landlord should receive their filing fee. I have made this decision pursuant to sections 72 and 62(3) of the Act.

This decision will be emailed to both parties. The monetary order and order of possession will be emailed to the landlord only for service on the tenant if necessary.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: May 29, 2020

Residential Tenancy Branch