



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNR, CNR, OPR, MNSD, MNDC, FF*

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to sections 55, 67, 38, 46, 62, 70 and 72 of the *Residential Tenancy Act*.

The landlord applied an order of possession and for a monetary order for unpaid rent. The landlord also applied to retain the security deposit in partial satisfaction of the monetary claim. The tenant applied for an order to cancel a notice to end tenancy for unpaid rent, for an order directing the landlord to comply with the *Act*, to suspend or restrict the landlord's right to enter the rental unit and for the recovery of the filing fee.

The notice of hearing was served on the tenant on October 16, 2020 by registered mail to the address of the rental unit. The landlord provided a tracking number. Despite having been served the notice of hearing and having made application for dispute resolution, the tenant did not attend the hearing and therefore the tenant's application is dismissed. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee?

Background and Evidence

The landlord testified that the tenancy started in October 2019. The monthly rent is \$2,500.00 due on the first of each month. Prior to moving in the tenant paid a security deposit of \$1,250.00. The landlord testified that the tenant failed to pay rent for the months of April to August 2020. The tenant paid rent for September 2020 but did not pay for the months of October to December 2020. On October 02, 2020, the landlord served the tenant with a ten-day notice to end tenancy for \$2,500.00 in unpaid rent that was due on October 01, 2020.

The tenant disputed the notice in a timely manner and continued to occupy the rental unit without paying rent. The landlord testified that at the time of the hearing the tenant owed the landlord rent for eight months for a total of \$20,000.00.

The landlord also stated that the tenant has received multiple parking violations from the strata in the amount of \$1,200.00. The landlord filed copies of the violation notifications.

The landlord is applying for an order of possession effective two days after service on the tenant and for a monetary order in the amount of \$20,000 for unpaid rent plus \$1,200.00 for strata fines. The landlord is also applying to retain the security deposit of \$1,250.00 in partial satisfaction of the monetary claim.

Analysis

Since the tenant did not call into the conference call, his application is dismissed without leave to reapply. Accordingly, the notice to end tenancy is upheld. The effective date of the notice is October 15, 2020.

Section 55 of the *Residential Tenancy Act* addresses an order of possession for the landlord and states:

Order of possession for the landlord

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 this case, I find that the landlord served the tenant with a notice to end tenancy that complies with section 52 (form and content of notice to end tenancy).

Since the tenant did not attend the hearing, I have dismissed the tenant's application for dispute resolution and have upheld the notice to end tenancy.

Under the provisions of section 55, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Based on the undisputed sworn testimony of the landlord and in the absence of evidence to the contrary, I accept the landlord's evidence in respect of the claim. I find that the landlord is entitled to \$20,000.00 for unpaid rent plus \$1,200.00 for strata fines.

Overall, the landlord has established a claim of \$21,200.00. I order that the landlord retain the security deposit of \$1,250.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$19,950.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession effective **two days after service** on the tenant and a monetary order in the amount of **\$19,950.00**.

The tenant's application is dismissed in its entirety.

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: December 22, 2020

Residential Tenancy Branch