



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TRIBE MANAGEMENT INC. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, OLC, PSF, OPR, MNRL-S, MNDCL-S, FFL

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.
- authorization to retain the tenant’s security and pet deposits in partial satisfaction of the monetary order requested, pursuant to section 38; 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;
- an order requiring the landlords to comply with the *Act*, regulation, or tenancy agreement pursuant to section 62; and
- an order to the landlord to provide services or facilities required by law pursuant to section 65.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an

opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms.

As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding these applications. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Should the 10 Day Notice to End Tenancy be cancelled? If not, is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to retain all or a portion of the tenants' deposits in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Is the tenant entitled to an order compelling the landlord to comply with the Act, regulation, or tenancy agreement?

Is the tenant entitled to an order requiring the landlord to provide services or facilities as per the tenancy agreement, Act, or regulation?

Background and Evidence

AG gave the following testimony on behalf of the landlord. The tenancy began on or about April 1, 2021. Rent in the amount of \$1795.00 is payable in advance on the first day of each month. The tenant paid a \$900.00 security deposit and \$900.00 pet deposit, the landlord continues to hold both. The tenant failed to pay rent in the month of April and on April 20, 2021 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of May 2021-August 2021, inclusive.

The landlord seeks to end the tenancy and be granted an order of possession along with a monetary order as follows:

Item	Amount
Unpaid April 2021 Rent	\$1795.00
Unpaid May 2021 Rent	1795.00
Unpaid June 2021 Rent	1795.00
Unpaid July 2021 Rent	1795.00
Unpaid August 2021 Rent	1795.00
Bank Charges	20.00
Filing Fee	100.00
Less Deposits	-1800.00
Total Monetary Order	\$7295.00

The tenant gave the following testimony. The tenant testified that she did sign the tenancy agreement that reflects the amount as claimed by the landlord but was verbally told by an employee that the rent was \$1346.25 per month. The tenant testified that she paid cash for the months of April and May but does agree that no payments have been made for June, July, August.

Analysis

The tenant failed to pay their rent in full within five days of being deemed to have received the 10 Day Notice. Although the tenant has filed an application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice, they have failed to provide sufficient evidence to show that the rent was paid, in fact; the tenant acknowledged and confirmed that she has not paid rent for at least three months.

In addition, section 26(1) of the *Act* establishes that “a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.” The tenant made references to some cash payments but was unable to provide sufficient evidence to support that claim. Based on the above, I am satisfied that the landlord has provided sufficient evidence to show the tenant did not pay rent as required and that this tenancy must end.

I find that the landlord is entitled to a 2-day Order of Possession. The landlord is granted an Order of Possession pursuant to Section 55 of the Act, which must be

served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the evidence provided by the landlord, I am satisfied that the tenant continues to owe the landlord unpaid rent as claimed by the landlord. Using the offsetting provision under Section 72 of the Act, I hereby apply the security and pet deposits against the amount of unpaid rent. The landlord is also entitled to the recovery of the \$100.00 filing fee. The tenant's application is dismissed in its entirety without leave to reapply.

Conclusion

The landlord is granted a monetary order as follows:

Item	Amount
Unpaid April 2021 Rent	\$1795.00
Unpaid May 2021 Rent	1795.00
Unpaid June 2021 Rent	1795.00
Unpaid July 2021 Rent	1795.00
Unpaid August 2021 Rent	1795.00
Bank Charges	20.00
Filing Fee	100.00
Less Deposits	-1800.00
Total Monetary Order	\$7295.00

The landlord is granted an order of possession and a monetary order for \$7295.00. The landlord may retain the security deposit. The tenancy is terminated.

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

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: August 03, 2021

Residential Tenancy Branch