



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NEWPORT VILLAGE COURTENAY
DEVELOPMENTS and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL, CNR-MT, RR, MNRT, PSF, RP, LRE,
LAT, 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.
- a monetary order for compensation for money owed or damages under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

The tenant requested:

- more time to make an application to cancel the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 66;
- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;

- an order to the landlord to provide services or facilities required by law pursuant to section 65;

While the landlord attended the hearing by way of conference call, the tenants 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 landlord was 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 landlord gave sworn testimony that on May 3, 2021 copies of the Application for Dispute Resolution hearing package ('Application') and evidence were served on each tenant by way of registered mail. The landlord provided documentation showing that the tenants signed for and accepted the package on May 5, 2021. In accordance with section 89 of the *Act*, I find that the tenants were duly served with copies of the landlords' application and evidence.

The landlord provided undisputed testimony that the tenants were served with the 10 Day Notice, with a corrected effective date of April 18, 2021, on April 3, 2021 by way of registered mail. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on April 8, 2021, 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 landlord gave undisputed testimony regarding the following facts. This tenancy began on January 15, 2021, with monthly rent set at \$1975.00, payable on the first of

each month. The landlords collected, and still hold, a security deposit of \$987.50. The tenants continue to reside in the rental unit.

The landlord issued the 10 Day Notice on April 3, 2021 to the tenants. A copy of the 10 Day Notice was included in the landlord's evidence as well as a Proof of Service. The landlord testified that the tenants made only a small partial payment for March's rent but have not paid any rent for April to August 2021.

The landlord is requesting the following:

Item	Amount
Unpaid Rent for March 2021	700.00
Unpaid Rent for April 2021	1975.00
Unpaid Rent for May 2021	1975.00
Unpaid Rent for June 2021	1975.00
Unpaid Rent for July 2021	1975.00
Unpaid Rent for August 2021	1975.00
Filing Fee	100.00
Total Monetary Order Requested	\$11,250.00

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, April 18, 2021. I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenants. If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

The landlord provided undisputed evidence that the tenants failed to pay the rent in full for the months of March 2021 through August 2021. Therefore, I find that the landlords are entitled to \$11,150.00.00 in arrears for the above period.

Although the landlord has not applied for it, using the offsetting provision under section 72 of the Act, the landlord is entitled to retain the \$987.50 security deposit in partial satisfaction of the claim. The landlord is also entitled to the recovery of the \$100.00 filing fee.

Conclusion

I issue a \$10,262.50.00 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:

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.

Item	Amount
Unpaid Rent for March 2021	700.00
Unpaid Rent for April 2021	1975.00
Unpaid Rent for May 2021	1975.00
Unpaid Rent for June 2021	1975.00
Unpaid Rent for July 2021	1975.00
Unpaid Rent for August 2021	1975.00
Filing Fee	100.00
Less Security Deposit	-987.50
Total Monetary Order Requested	\$10,262.50

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.

As the tenants did not attend this hearing, their entire application is dismissed 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 13, 2021

Residential Tenancy Branch