



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, RR, RP, FFT

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order to the landlords to make repairs to the rental unit pursuant to section 32;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- authorization to recover their filing fee for this application from the landlords pursuant to section 72.

The tenants did not attend. The landlord's agent, M.J. (the landlord) attended the hearing via conference call and provided undisputed testimony.

At the outset, the landlord stated that the tenants had vacated the rental unit sometime in July 2021 and that new tenants now occupy the rental unit.

The landlord confirmed in her direct testimony that the landlord was served with the tenants notice of hearing package and were aware of the listed issue(s). The landlord was prepared to go ahead and also seeks recovery of unpaid rent for the 3 month period in which the tenants failed to pay rent.

This matter was set for a conference call hearing at 9:30 a.m. on this date. The landlord confirmed that they were served with the tenants' application for dispute and that they were aware of the listed issues.

I waited until 10 minutes past the start of the scheduled hearing time in order to enable both parties to connect with this teleconference hearing.

Rule 7 of the Rules of Procedure provides that:

**7.1 Commencement of the dispute resolution hearing**

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

**7.2 Delay in the start of a hearing**

In the event of a delay of a start of a conference call hearing, each party must stay available on the line to commence the hearing for 30 minutes after the time scheduled for the start of the hearing.

In the event of a delay of a face-to-face hearing, unless otherwise advised, the parties must remain available to commence the hearing at the hearing location for 30 minutes after the time scheduled for the start of the hearing.

**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.

**7.4 Evidence must be presented**

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of any evidence or submissions from the tenants and in the absence of the tenants' participation in this hearing, I order the application dismissed without leave to reapply. I make no findings on the merits of the matter.

The hearing shall proceed on the landlord's request for recovery of unpaid rent.

Issue(s) to be Decided

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

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord provided undisputed affirmed testimony that a 10 Day Notice to End Tenancy for Unpaid Rent was served to the tenants on April 8, 2021. This is confirmed based upon the tenants' dismissed application for dispute file in which the tenants

confirmed receiving the 10 Day Notice on April 8, 2021 posted to their door. The 10 Day Notice states that the tenants failed to pay rent of \$1,700.00 that was due on April 1, 2021.

The landlord provided undisputed evidence that the tenants failed to pay any rent since the notice was served up until the date they vacated the rental unit sometime in July 2021.

The landlord seeks unpaid rent of \$1,700.00 in monthly rent for the months, April, May and June 2021 for total of \$5,100.00.

### Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

In this case the tenants' original application was dismissed without leave to reapply due to the tenants' failure to attend and present their dispute. I accept the landlord's undisputed evidence that the 10 Day Notice dated April 8, 2021 was properly served to the tenants. On this basis, I find that the 10 Day Notice is valid.

Pursuant to Bill 7 – 2021: Tenancy Statutes Amendment Act, 2021, 19 Section 55 is amended by adding the following subsection:

(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end tenancy under section 46 [landlord's notice: non-payment of rent], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

As such, I find as the 10 Day Notice is valid the landlord is entitled to unpaid rent of \$1,700.00 for the month of April 2021 as claimed. I also accept the undisputed evidence of the landlord that the tenants failed to pay ongoing rent for the months of May and June 2021 for \$1,700.00 per month as they did not vacate until July 2021. On this basis, the landlord is granted a monetary order of \$5,100.00 for unpaid rent.

### Conclusion

The tenants' application is dismissed without leave to reapply.

The landlord is granted a monetary order for \$5,100.00.

This order must be served upon the tenants. Should the tenants fail to comply with this order, the 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: August 13, 2021

---

Residential Tenancy Branch