



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR MT RR FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (application) by the tenants seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 6, 2021 (10 Day Notice), for more time to make an application to cancel a 10 Day Notice, for a rent reduction and to recover the filing fee.

The tenants were provided with a copy of the Notice of a Dispute Resolution Proceeding dated May 17, 2021 (Notice of Hearing). The tenants, however, did not attend the hearing set for this date, September 10, 2021 at 11:00 a.m. Pacific Standard Time. The phone line remained open for 10 minutes and was monitored throughout this time. The only person to call into the hearing was landlord agent SL (agent), who was ready to proceed.

Preliminary and Procedural Matters

The agent was informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The agent was also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the agent was informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The agent had no questions about my direction pursuant to RTB Rule 6.11.

In addition, the agent confirmed their email address and was advised that the decision and any applicable orders would be emailed to them.

In addition, the landlord requested unpaid rent of \$2,766.00 comprised of \$1,383.00 owing for April and May of 2021 as the landlord affirmed that the tenants were evicted on May 22, 2021 via bailiffs after an Order of Possession was granted on a separate file dated May 11, 2021. That file number has been included on the style of cause for ease of reference.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3 apply and state:

7.1 Commencement of the dispute resolution hearing

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

7.3 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.

Given the above and following the 10-minute waiting period, the application of the tenants was **dismissed without leave to reapply**. This decision does not extend any applicable time limits under the Act. The respondent attended the hearing, yet the applicant tenants did not attend the hearing to present the merits of their application.

As a result of the above, I do not grant the filing fee.

Section 55(1.1) of the Act applies and states:

55(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a 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.**

[Emphasis added]

Pursuant to section 55(1.1) of the Act, I grant the landlord **\$2,766.00** for unpaid rent for April and May of 2021 as monthly rent was \$1,383.00 and the tenants did not vacate until forcibly evicted by bailiffs with a lawful Writ of Possession on May 22, 2021.

Conclusion

The application is dismissed in full without leave to reapply.

The landlord is granted a monetary order of \$2,766.00 for unpaid rent of \$1,383.00 per month April and May of 2021. The monetary order will be emailed to the landlord only for service on the tenants. Should the landlord require enforcement of the monetary order, the order must be first served on the tenants with a demand for payment letter and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. I caution the tenants that they can be held liable for all costs related to enforcement of the monetary order.

This decision will be emailed to both parties at the email addresses confirmed by the agent and the email address for the tenants provided in the tenants' application.

The monetary order will be emailed to the landlord only for service on the tenants.

This decision is final and binding on the parties, except as 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: September 10, 2021

Residential Tenancy Branch