



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals and [tenant name
suppressed to protect privacy]

DECISION

Dispute Codes

Tenant: CNR

Landlord: OPR-DR, MNR-DR, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the “Act”), I was designated to hear two crossed applications regarding a residential tenancy dispute.

On June 21, 2021 the Tenant applied for:

- an order to cancel a 10 Day Notice to End Tenancy For Unpaid Rent (the “Notice”), pursuant to section 46.

On July 5, 2021 the Landlord applied for:

- an order of possession for the rental unit, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee from the Tenant, pursuant to section 72.

The hearing started at 11:00AM. The tenant did not attend. The teleconference line remained open for the duration of the approximately 38-minute hearing. The Landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were also made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Notice of Hearing was made available to the Landlord on July 20, 2021. The Landlord testified they served the Tenant with the dispute resolution proceeding package (DRPP) by registered mail on July 30, 2021, and provided a tracking number. Based on the Landlord’s undisputed testimony, I find the DRPP served on the Tenant in accordance with section 89 of the Act, and deemed received on August 4, 2021, pursuant to section 90 of the Act.

As the Tenant did not attend the hearing, I dismiss their application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent. The hearing proceeded on the Landlord's application for an order of possession for the rental unit, a monetary order for unpaid rent, and recovery of the filing fee.

Issues to be Decided

1. Is the Landlord entitled to an order of possession and a monetary order due to non-payment of rent?
2. Is the Landlord entitled to the filing fee?

Background and Evidence

The Landlord testified the periodic tenancy began on February 1, 2012 with a landlord of a different name. Rent is now \$1047.00, due on the first of the month. The Tenant paid a security deposit of \$450.00 which the Landlord still holds. The Landlord submitted a copy of the tenancy agreement as evidence.

The Landlord testified the Tenant got behind in paying rent in 2021 as follows:

Month	Rent Paid	Rent Owning	Balance Owning
March	\$0	\$1047.00	\$1047.00
April	\$1247.00	\$1047.00	\$847.00
May	\$0	\$1047.00	\$1894.00
June	\$0	\$1047.00	\$2941.00
July	\$0	\$1047.00	\$3988.00
August	\$0	\$1047.00	\$5035.00
September	\$0	\$1047.00	\$6082.00
October	\$0	\$1047.00	\$7129.00

The Landlord testified that as of the hearing date, the Tenant had made no additional payments for the outstanding rent.

The Landlord testified they served the Notice to end tenancy on the Tenant on June 7, 2021, by posting it on the door of the rental unit. A copy of the Notice was submitted by the Landlord as evidence. The Notice gives the address of the rental unit, states an effective date, states the grounds for the eviction, and is in the required form. The Notice is not dated or signed by the Landlord, which the Landlord testified was due to an oversight.

Analysis

At the heart of every tenancy agreement is the requirement to pay rent. Section 26 of the Act states:

26 (1) 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.

Pursuant to section 46(1) of the Act, the landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice. A notice under this section must comply with the form and content provisions of section 52.

I accept the undisputed evidence that the Tenant has not paid rent and the Landlord had cause to end the tenancy. I find the Landlord served the Tenant with the Notice to end tenancy in accordance with section 88 of the Act and deem the Tenant received the Notice on June 10, 2021, pursuant to section 90 of the Act. However, I find that the Notice does not meet the content requirement of section 52 as it is not signed and dated by the Landlord. As this is a critical flaw, the Landlord's application for an order of possession is dismissed.

I accept the Landlord's undisputed affirmed testimony and find that the Tenant owes the Landlord \$7129.00 in unpaid rent for the months of March to October 2021. There is no interest owing on the Tenant's security deposit. Pursuant to section 38(4)(b), I order the Landlord to retain the Tenant's \$450.00 security deposit in partial satisfaction of the unpaid rent. Pursuant to section 67 of the Act, the Landlord is awarded \$6,679.00 for the remaining unpaid rent.

As the Landlord is successful in their application, pursuant to section 72 of the Act, I order the Tenant to pay the Landlord the \$100.00 filing fee the Landlord paid to apply for dispute resolution.

Conclusion

The Tenant's application is dismissed.

The Landlord's application for an order of possession is dismissed.

The Landlord is ordered to retain the Tenant's security deposit in partial satisfaction of the unpaid rent.

The Landlord's application for a monetary award for unpaid rent and filing fee is successful.

I hereby grant the Landlord a monetary order for \$6,779.00.

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: October 22, 2021

Residential Tenancy Branch