



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Skyline Towers
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC MNR FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on November 25, 2021. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a One Month Notice to End Tenancy for Cause (the Notice);
- a monetary order for unpaid rent or utilities

The Landlord attended the hearing, provided affirmed testimony, and confirmed she understood Rule 6.11. However, the Tenant did not attend the hearing. The Landlord provided registered mail tracking information showing she mailed (to the rental unit) the Notice of Hearing and evidence to the Tenant on August 13, 2021. Pursuant to section 88 and 90 of the Act, the Tenant is deemed served with this package 5 days after it was mailed.

The Landlord was given a full opportunity to be heard, to present evidence and to make submissions. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

- Is the landlord entitled to an order of possession under the *Act*?
- Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The Landlord stated that monthly rent is \$936.00 and is due on the first of the month, and she currently holds a security deposit in the amount of \$412.50. The Landlord also provided a copy of the tenancy agreement, which shows that the Tenant agreed to a \$25.00 late fee if rent was not paid on time.

The Landlord stated that she served the Tenant with the Notice by sending it to the Tenant at the rental unit by registered mail on June 23, 2021. Proof of mailing was provided into evidence.

The Notice was issued due to repeated late payment of rent. Alongside the Notice, the Landlord attached a ledger, detailing the late and partial rent payments over time. The Landlord also uploaded a detailed ledger of the amounts owing up until July 7, 2021. However, she stated that since the hearing, the Tenant has continued to pay rent late, or not at all, so the amount of rent owing has gone up to \$3,397.00 as of the time of this hearing, which includes unpaid rent amounts, late fees, and partial rent payments throughout the tenancy. This amount was calculated by taking the amount listed on the provided spreadsheet, and adding the accrued amounts since then.

More specifically, the Landlord stated that the Tenant paid \$1,000.00 for August on August 7, 2021, which reduced the amount owing to \$2,514.00 after the late fee was applied. Then, in September, the Tenant paid another \$1,000.00 on September 13, 2021, which brought the amount down to \$2,475.00. Then, on October 12, 2021, the Tenant paid another \$1,000.00 bringing the total down to \$2,436.00. Then the Tenant failed to pay anything for November, which brings the final total owing to \$3,397.00, as of this date.

Analysis

Based on the testimony and documentary evidence, and on a balance of probabilities, I find:

After reviewing the Notice, I am satisfied that it complies with section 52 of the *Act* [*form and content of notice to end tenancy*]. Section 47 of the *Act* permits a landlord to end a tenancy for cause. A tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute it by making an application for dispute resolution. Failure to dispute the notice to end tenancy for cause in this period results in the conclusive presumption that the tenant has accepted the end of the tenancy, under section 47(5) of the *Act*.

In this case, the Landlord issued the Notice for repeated late payment of rent. Based on the Landlord's testimony and the Proof of Service document submitted, I am satisfied that the Landlord served the Tenant with the Notice, by registered mail. Pursuant to sections 89 and 90 of the *Act*, documents served in this manner are deemed to be received 5 days after mailing. I find the Tenant received the Notice on June 28, 2021.

The Tenant had 10 days, until July 8, 2021, to dispute the notice, but did not do so. Accordingly, pursuant to section 47(5) of the *Act*, I find the tenant is conclusively presumed to have accepted the end of the tenancy on the effective date of the Notice.

Therefore, the Landlord is entitled to an order of possession, which will be effective **two days after service** on the tenant.

With respect to rent owed, I find there is sufficient evidence to show the Tenant now owes \$3,397.00 in unpaid rent and late fees. I award this amount, in full.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Landlord was substantially successful in this hearing, I order the Tenant to repay the \$100. Also, pursuant to sections 72 of the *Act*, I authorize that the security deposit, currently held by the Landlord, be kept and used to offset the amount of rent still owed by the Tenant. In summary, I grant the monetary order based on the following:

Claim	Amount
Cumulative unpaid rent as above	\$3,397.00
Other:	
Filing fee	\$100.00
Less:	
Security Deposit currently held by Landlord	(\$412.50)
TOTAL:	\$3,084.50

Conclusion

The landlord is granted an order of possession effective **two days after service** on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

The Landlord is granted a monetary order pursuant to Section 67 in the amount of **\$3,084.50**. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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: November 25, 2021

Residential Tenancy Branch