



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ANHART COMMUNITY HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

For the Landlord: OPR-DR MNR-DR FFL
For the Tenant: CNR MNDCT LRE

Introduction

This hearing dealt with an Application for Dispute Resolution (application) by both parties seeking remedy under the *Residential Tenancy Act* (Act). The tenants applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated July 7, 2021 (10 Day Notice), for a monetary claim of \$355.04 for compensation or money owing under the Act, regulation or tenancy agreement and for an order to suspend or set limits on the landlord's right to enter the rental unit, site or property. The landlord applied for an order of possession based on the 10 Day Notice, for a monetary order of \$2,350.00 for unpaid rent or utilities, and to recover the cost of the filing fee.

An agent for the landlord, KW (agent) attended the teleconference hearing which began on Friday, November 12, 2021 at 11:01 a.m. Pacific Standard Time (PST) by conference call as per the Notice of a Dispute Resolution Hearing (Notice of Hearing) provided to both parties. The line remained open while the phone system was monitored for 28 minutes and the only participant who called into the hearing during this time was the agent who was ready to proceed. After the 10-minute mandatory waiting period, the tenant's application was **dismissed in full, without leave to reapply** in accordance with Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3 that address the consequences for failing to attend a hearing at the scheduled time.

The hearing continued with consideration of the landlord's application only. As the tenant did not attend the hearing, service of Notice of Hearing, the application and documentary evidence were considered. The landlord confirmed service of the Notice of Hearing, application and documentary evidence (Package) on the tenant by registered mail, with the Package addressed to the tenant. The landlord provided a registered mail

tracking number in evidence, which has been included on the style of cause for ease of reference and identified as 1. According to the online Canada Post registered mail tracking website, the landlord mailed the Package on August 9, 2021 and that the package was marked “unclaimed” and was returned to sender as of September 11, 2021.

The agent stated that a second evidence package was mailed to the tenant. The landlord provided a second registered mail tracking number in evidence, which has been included on the style of cause for ease of reference and identified as 2. According to the online Canada Post registered mail tracking website, the landlord mailed the second Package on October 29, 2021 and that the second Package has not been picked up as of the date of the hearing. As the tenant or an agent for the tenant failed to attend the hearing, I consider the landlord’s application to be unopposed and the hearing continued without the tenant present, pursuant to RTB Rules 7.1 and 7.3, as I am satisfied that the tenant has been sufficiently served in accordance with the Act.

Preliminary and Procedural Matters

The agent was informed at the start of the hearing that recording of the dispute resolution is prohibited under the RTB 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 did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition, the landlord confirmed their email address at the outset of the hearing and stated that they understood that the decision and any orders would be emailed to them. The decision will be emailed to the tenant at the email address for the tenant’s mother, JCC provided by the tenant in their application.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act and if so, in what amount?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month-to-month tenancy began on March 31, 2020. Monthly rent was \$450.00 per month and was due on the first day of each month. The agent affirmed that the tenant paid a security deposit of \$250.00 at the start of the tenancy, which the landlord continues to hold.

The agent referred to the 10 Day Notice, which the agent stated was dated July 7, 2021 and was served on the tenant by posting the tenant's door. The agent stated that it had been removed from the door, which is supported by the tenant disputing the 10 Day Notice on July 12, 2021. The 10 Day Notice indicated an effective vacancy date of July 20, 2021.

The 10 Day Notice is signed and dated and indicates that \$3,150.00 was owed as of July 1, 2021. The agent testified that as of the day of the hearing, the tenant owed \$2,250.00 in unpaid rent as follows:

1. January 2021 unpaid rent of \$450.00
 2. February 2021 unpaid rent of \$450.00
 3. March 2021 unpaid rent of \$450.00
 4. April 2021 unpaid rent of \$450.00
 5. May 2021 unpaid rent of \$450.00
- | | |
|--------------|-------------------|
| TOTAL | \$2,250.00 |
|--------------|-------------------|

The landlord submitted a tenant ledger in support of the money owed. The landlord is seeking an order of possession and a monetary order, including the filing fee.

Analysis

Based on the landlord's undisputed documentary evidence and the agent's undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant did not attend the hearing and the tenant's application has been dismissed, I find that the landlord's monetary claim is unopposed by the tenant. I also find that the testimony and documentary evidence support the landlord's claim. I find the tenant breached section 26 of the Act, which requires the tenant to pay rent on the first day of each month. I also find the **tenancy ended on July 20, 2021**, which was the effective vacancy date listed on the 10 Day Notice. I have reached this finding as the 10 Day Notice was posted to the tenant's door and is deemed served 3 days after it is posted according to section 90 of the Act. Furthermore, the tenant disputed the 10 Day Notice on July 12, 2021 yet did not attend the hearing or have an agent attend on

their behalf. Pursuant to section 55 of the Act, I must grant the landlord an order of possession once I have dismissed the tenant's application and therefore, I grant the landlord an order of possession effective **two (2) days** after service on the tenant.

In addition, I find the landlord has met the burden of proof in proving their monetary claim in the full amount of **\$2,250.00** for unpaid rent as listed above.

Regarding the filing fee, as the landlord's application was successful, I grant the landlord the **\$100.00** filing fee pursuant to section 72 of the Act/

In summary, I find the landlord has established a total monetary claim of **\$2,350.00** comprised of unpaid rent and the filing fee. Pursuant to sections 38 and 72 of the Act, I authorize the landlord to retain the tenant's entire **\$250.00** security deposit from, which has accrued \$0.00 in interest, in partial satisfaction of the landlord's monetary claim. I grant the landlord a monetary order pursuant to section 67 of the Act for the balance owing by the tenant to the landlord in the amount of **\$2,100.00**.

Conclusion

The tenant's application has been dismissed in full, without leave to reapply.

The landlord's application is fully successful.

The tenancy ended on July 20, 2021.

The landlord has been granted an order of possession effective two (2) days after service on the tenant. Should the landlord require enforcement of the order of possession, the landlord must first serve the tenant with the order of possession. This order may then be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The landlord has been authorized to retain the tenant's entire \$250.00 security deposit in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order for the balance owing by the tenant to the landlord in the amount of \$2,100.00. Should the landlord require enforcement of the monetary order, the monetary order must be served on the tenant and then may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that court.

The tenant is cautioned that they can be held liable for all costs related to the enforcement of the order of possession and monetary order.

This decision will be emailed to both parties.

The order of possession and monetary order will be emailed to the landlord only for service on the tenant.

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: November 12, 2021

Residential Tenancy Branch