



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LRE, CNR-MT
OPR-DR, MNR-DR, FFL

Introduction

This hearing convened as a result of cross Applications. In the Tenants' Application filed on July 13, 2021 the Tenants sought an Order canceling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on July 2, 2021 (the "Notice"), more time to make such an Application, and an Order that the Landlord's right to enter the rental unit be restricted. In the Landlord's Application, also filed on July 13, 2021, the Landlord sought an Order of Possession and monetary compensation based on the Notice as well as recovery of the filing fee.

The hearing of the parties' Applications was scheduled for teleconference before me at 9:30 a.m. on November 15, 2021. Only the Landlord and his agent, T.B., called into the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and his agent and I were the only ones who had called into this teleconference.

Preliminary Matter---Tenants' failure to Attend Hearing

Hearings before the Residential Tenancy Branch are conducted in accordance with the *Residential Tenancy Branch Rules of Procedure*. Rules 7.1, 7.3 and 7.4 address the requirement of a party to call into the teleconference hearing and read as follows:

7.1 Commencement of Hearing

The hearing must commence at the scheduled time unless otherwise decided 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.

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.

The Tenants bear the burden of proving their claim on a balance of probabilities. In the absence of any evidence or submissions from the Tenants and in the absence of the Tenants' participation in this hearing, I dismiss the Tenants' claim without leave to reapply.

Preliminary Matter—Issues to be Decided

The parties attended a hearing before Arbitrator Green on August 6, 2021. At that time the Landlord was awarded an Order of Possession and monetary compensation for rent for June and July 2021.

The Landlord enforced the Order through the BC Supreme Court with a bailiff and vacated the unit as of August 17, 2021. The Tenants failed pay rent for August 2021, such that the Landlord sought further monetary compensation for unpaid rent for August 2021 in the amount of \$1,400.00. The Landlords also sought \$100.00 for the filing fee.

Issues to be Decided

1. Is the Landlord entitled to monetary compensation for unpaid rent for August 2021?
2. Should the Landlord recover the filing fee?

Background and Evidence

The Landlord provided a copy of the residential tenancy agreement in evidence which confirmed the following: this one year fixed term tenancy began ay 18, 2021; monthly rent was \$1,400.00 and the Tenant paid a \$700.00 security deposit.

As noted, an Order of Possession in favour of the Landlord was granted on August 6, 2021. The Tenants failed to move out and the Landlord enforced the Order in the B.C. Supreme Court. On August 16, 2021 the Tenants were removed by the Court Bailiff.

Pursuant to the August 6, 2021 Decision, the Landlord also obtained a Monetary Order which included compensation for unpaid rent for June and July 2021. During the hearing before me the Landlord sought further compensation for unpaid rent for August 2021 as well as recovery of the filing fee.

Analysis

Pursuant to section 26 of the *Act*, a tenant must pay rent when rent is due.

I find the Tenants were obligated to pay monthly rent in the amount of \$1,400.00. I further find the Tenants failed to pay rent for the month of August 2021 despite being ordered to vacate the rental unit. I find this amount to be recoverable from the Tenants and I grant the Landlord compensation in the amount of **\$1,400.00** for August 2021 rent.

As the Landlord has been successful in their Application, I also award them recovery of the **\$100.00** filing fee for a total award of **\$1,500.00**.

During the hearing the Landlord's agent confirmed the Landlord also sought compensation for the cost to enforce the Order of Possession as well as the costs to repair the rental unit. He advised the rental unit was still undergoing repairs and has yet to be re-rented. As the Landlord failed to formally amend their Application and serve the Amendment on the Tenants as required by *Rule 4*, I grant them leave to reapply for further monetary compensation.

Analysis

The Tenants failed to call into the hearing such that their Application is dismissed without leave to reapply.

The Landlord obtained an Order of Possession on August 6, 2021 such that his request for a further order was not necessary; accordingly, that relief is dismissed without leave to reapply.

The Landlord is granted a Monetary Order in the amount of **\$1,500.00** for unpaid rent for August 2021 as well as recovery of the filing fee. The Landlord is granted leave to reapply for further monetary compensation.

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 15, 2021

Residential Tenancy Branch