



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Tenant application #1: CNR
 Tenant application #2: CNC

Introduction, Preliminary and Procedural Matters –

This telephone conference call hearing was convened as the result of the tenant's two applications for dispute resolution seeking remedy under the Residential Tenancy Act (Act). The tenant first applied for an order cancelling the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice) issued by the landlord.

The tenant then filed a subsequent application for dispute resolution seeking remedy under the Act, for an order cancelling the One Month Notice to End Tenancy for Cause (One Month Notice) issued by the landlord.

The two separate and distinct applications were scheduled for a hearing the same date and time.

The hearing began as scheduled at 9:30 a.m. Pacific Time on Thursday, December 16, 2021, and the telephone system remained open and was monitored for 16 minutes.

During this time, the applicant/tenant did not dial into the telephone conference call hearing; however, the landlord was present.

The landlord was affirmed and provided his testimony. The landlord also affirmed he was not recording the hearing.

Rules 7.3 and 7.4 of the Rules of Procedure provides as follows:

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.

Accordingly, in the absence of any evidence or submissions from the tenant at the hearing, **I order the tenant's two applications dismissed, without leave to reapply.**

Issue(s) to be Decided

Is the landlord entitled to an order of possession of the rental unit and a monetary order consisting of unpaid monthly rent?

Background and Evidence

The tenancy began on July 1, 2020, and monthly rent was \$700.

The landlord said that the tenant did not serve him with her first application and he had no knowledge about it.

The landlord said that he does not have a data plan on his mobile phone, but turned on the data one day to check on something else, only to discover the tenant had sent him the second application. The landlord submitted that was the only reason he knew about the hearing. The landlord said that there was no evidence attached to the application.

The landlord filed in evidence a copy of a 10 Day Notice dated July 22, 2021, for the second application. However, that 10 Day Notice was not the subject of the tenant's application for which she sought cancellation.

Filed in evidence by the tenant was the first page only of a 10 Day Notice.

As I was unable to review a complete copy of the 10 Day Notice in the tenant's first application, I allowed the landlord to testify about the contents of that Notice.

As the landlord did not receive the tenant's application seeking cancellation of the 10 Day Notice, I find he would not have known to submit a complete copy of the Notice for evidence purposes. As a result, I allowed the landlord to submit a copy of the completed copy, so long as it was submitted the day of the hearing. The landlord complied and a completed copy was before me before making this Decision.

The Notice was dated August 10, 2021, for an effective date of August 20, 2021, and listed that the tenant failed to pay the rent of \$700 for May 2021, and \$300 for June 1, 2021.

The tenant, in her application, confirmed receiving the Notice on August 10, 2021.

The landlord submitted that the tenant remains living in the rental unit and has not been paying the monthly rent.

Analysis and Conclusion

Order of possession of the rental unit –

Given the above dismissal of the tenant's applications and after reviewing a copy of the Notice, which had an effective vacancy date of August 20, 2021, and which I find complies with section 52 of the Act as to form and content, pursuant to section 55(1) of the Act, I must grant an order of possession to the landlord.

I therefore grant the landlord an order of possession of the rental unit effective and enforceable **two (2) days after service on the tenant.**

Should the tenant fail to vacate the rental unit pursuant to the terms of the order after being served, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

The tenant is **cautioned** that costs of such enforcement, **including bailiff fees**, are recoverable from the tenant.

Monetary order –

I find that the landlord submitted sufficient, undisputed evidence to show that the tenant did not pay the monthly rent listed on the Notice, for a total of \$1,000 in unpaid monthly rent for those two months.

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 order the tenant to pay the landlord the amount of \$1,000, which is the amount of unpaid monthly rent listed on the Notice.

As a result, I grant the landlord a final, legally binding monetary order for the amount of his monetary award of \$1,000.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court.

The tenant is **cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenant's two applications are dismissed without leave to reapply as she failed to attend the hearing to submit evidence.

Due to the dismissal of the tenant's two applications for dispute resolution, the landlord has been granted an order of possession of the rental unit effective two (2) days after service on the tenant.

The landlord is granted a monetary order in the amount of **\$1,000** comprised of unpaid monthly rent owed by the tenant for June and July, 2021.

The landlord is at liberty to make an application for dispute resolution seeking any other amounts of monthly rent owed.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: December 20, 2021

Residential Tenancy Branch