



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CORE HOLDINGS CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

For the landlord: OPC FFL
For the tenant: CNR FFT

Introduction

This hearing was convened as a result of an Application for Dispute Resolution (application) by both parties seeking remedy under the *Residential Tenancy Act* (Act). The landlord applied for an order of possession based on an undisputed 1 Month Notice to End Tenancy for Cause dated December 16, 2021 (1 Month Notice) and to recover the cost of the filing fee. The tenant applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice) and to recover the cost of the filing fee.

An agent for the landlord, EO (agent) attended the teleconference hearing. The tenant did not attend the hearing. The tenant was provided the Notice of a Dispute Resolution Proceeding dated March 23, 2022 (Notice of Hearing) after filing their application. After the 10-minute waiting period, the tenant's application was **dismissed in full, without leave to reapply**, as the tenant failed to attend the hearing to present the merits of their application.

The agent testified that they served the tenant with the Notice of Dispute Resolution Hearing document dated February 8, 2022 (Notice of Hearing) and application on February 10, 2022 at approximately 3:45 p.m. at the rental unit via personal service on the tenant, which was witnessed by third party, CO (Witness). As a result of the above, I find the tenant was served as of February 10, 2022 in accordance with the Act. As the tenant failed to attend the hearing, I find the landlord's application to be undisputed by the tenant. Pursuant to Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.3 and 7.4, the hearing continued without the tenant present.

I have reviewed all oral and written evidence before me that met the requirements of the RTB Rules. However, only the evidence relevant to the issues and findings in this matter are described in this decision. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters

The agent confirmed the email address of the landlord and stated that the tenant does not have an email address, which is consistent with both applications before me. As a result, the agent was advised that the decision and order will be sent by email to the landlord and by regular mail to the tenant.

In addition, and pursuant to section 64(3)(c) of the Act, I have amended the tenant's application to reflect the correct corporate name of the landlord, CHC.

Issues to be Decided

- Is the landlord entitled to an order of possession under the Act?
- If yes, is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the fixed-term tenancy agreement was submitted in evidence. The tenancy began on March 1, 2021 and reverted to a month-to-month tenancy after February 28, 2022. Monthly rent in the amount of \$1,000.00 is due on the first day of each month. The tenant paid a security deposit of \$500.00 at the start of the tenancy, which the landlord continues to hold. The agent stated that tenant continues to occupy the rental unit and that the landlord is seeking an order of possession and the filing fee as a result.

The 1 Month Notice submitted for my consideration by the landlord is dated December 16, 2021 and has an effective vacancy date of January 31, 2022. As the tenant did not file an application to dispute the 1 Month Notice, and did not attend the hearing, I find the 1 Month Notice to be undisputed by the tenant, which I will address further below.

The 1 Month Notice indicates the cause as repeated late payment of rent. The Details of Cause states that the tenant paid rent late in April 2021, September 2021 and December 2021. The agent stated that the rent for those months was paid after the first of the month deadline.

Analysis

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

1 Month Notice – The landlords issued a 1 Month Notice and as the tenant failed to dispute the 1 Month Notice, I find the 1 Month Notice was not disputed by the tenant. Section 47(5) of the Act applies and states:

47(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.
[emphasis added]

Section 55(2)(b) of the Act applies and states:

Order of possession for the landlord

55(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

(b) a notice to end the tenancy has been given by the landlord, **the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;**

[emphasis added]

Given the above and considering that I find that the 1 Month Notice complies with section 52 of the Act, I grant the landlord an order of possession. As the agent confirmed that money has been paid for use and occupancy for April 2022, I grant the landlord an order of possession effective **April 30, 2022 at 1:00 p.m.**

Based on the above, I find the tenancy ended January 31, 2022, which was the effective vacancy date listed on the 1 Month Notice.

As the landlord's application had merit, I grant the landlord the recovery of their **\$100.00** filing fee pursuant to section 72 of the Act. I authorize the landlord to deduct \$100.00 from the tenant's security deposit of \$500.00 in full satisfaction of the recovery of the cost of the filing fee pursuant to sections 38, 67 and 72 of the Act. Pursuant to sections 38 and 62(3) of the Act, I find that the tenant's security deposit balance is \$400.00 effective immediately.

Conclusion

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

The landlord application is successful, and the landlord has been granted an order of possession effective April 30, 2022 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The tenancy ended on January 31, 2022.

The landlord has been authorized to retain \$100.00 from the tenant's security deposit for the filing fee. The tenant's new security deposit balance is \$400.00.

This decision will be emailed to the landlord and sent by regular mail to the tenant. The order of possession will be emailed to the landlord only for service on the tenant.

This decision is final and binding on the parties, unless 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: April 26, 2022

Residential Tenancy Branch