



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNR, OLC, MNDCT, RR, LRE, PSF**

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "*Act*") for:

- cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") pursuant to section 46;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;

This matter was set for hearing by telephone conference call at 11:00 am on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the agent for the respondents.

At the outset of the hearing the agent for the respondent said that the named respondent is not a legal entity and provided the names of the personal respondents. The style of cause has been corrected accordingly.

Rule 7.3 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 reapply.

Therefore, as the applicants did not attend the hearing, and the respondent was present and ready to proceed, I dismiss the claim, in its entirety, without leave to reapply.

Section 55 (1) of the *Act* provides that:

If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I have dismissed the tenants' application, and I find that the landlord's 10 Day Notice dated February 4, 2022 complies with the form and content requirements of section 52 as it is signed and dated by the landlord, provide the address of the rental unit, the effective date of the notice, and the grounds for the tenancy to end. I am satisfied with the evidence that the tenant failed to pay rent and utilities as required under the tenancy agreement giving rise to the issuance of the Notice. Accordingly, I find that the landlords are entitled to an Order of Possession pursuant to section 55. As the effective date of the notice has passed, I issue an Order of Possession effective two (2) days after service.

Section 55(1.1) provides that:

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.

As noted, the circumstances referred to in subsection (1)(a) and (b) apply in the present case. The landlord gave undisputed testimony that the amount of the rental arrear for this tenancy has increased since the issuance of the 10 Day Notice and the total arrear

as of May 12, 2022, the date of the hearing is \$5,250.00. Pursuant to section 62(3) and 68 of the *Act* and Rule 4.2 of the Rules of Procedure as additional rent and utilities coming due is reasonably foreseeable, I issue a monetary award in the landlord's favour in that amount.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security deposit in partial satisfaction of the monetary award issued in the landlord's favour

Conclusion

The tenants' application is dismissed in its entirety without leave to reapply.

I grant an Order of Possession to the landlords effective **2 days after service on the tenants**. Should the tenants or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlord's favour in the amount of \$4,650.00. The tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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: May 12, 2022

Residential Tenancy Branch