



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an Application for Dispute Resolution (application) by the tenant seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 10 Day Notice for Unpaid Rent or Utilities dated February 10, 2022 (10 Day Notice).

The tenant was provided with a copy of the Notice of a Dispute Resolution Proceeding dated February 23, 2022 (Notice of Hearing) when they made their application. The tenant, however, did not attend the hearing set for this date, May 30, 2022 at 9:30 a.m. Pacific Time. The phone line remained open for 16 minutes and was monitored throughout this time. The only person to call into the hearing was landlord FM (landlord), who was ready to proceed.

Preliminary and Procedural Matters

The landlord confirmed their email address and was advised that the decision and any applicable orders would be emailed to them.

In addition, the landlord requested unpaid rent of \$4,650.00 comprised of \$1,550.00 in unpaid rent for the months of February, March and April 2022. The landlord confirmed the tenant vacated the rental unit on April 18, 2022 and has not provided the landlord with their written forwarding address.

Issues to be Decided

1. Should the tenant's application be dismissed for failing to attend their scheduled hearing?
2. If yes, does the Act require a monetary order for unpaid rent?

Analysis

Based on the tenant failing to attend the hearing they applied for and the testimony provided during the hearing by the landlord, and on the balance of probabilities, I find the following.

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1, 7.3 and 7.4 apply and state:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set 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.

Given the above and following the 10-minute waiting period, the application of the tenant was **dismissed without leave to reapply**. This decision does not extend any applicable time limits under the Act. The landlord did attend the hearing, yet the applicant tenant did not attend the hearing to present the merits of their application.

As the filing fee was already waived, it is not granted.

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]

The landlord confirmed the 10 Day Notice dated February 10, 2022 was served on the tenant with an effective vacancy date of February 23, 2022 and since that time the tenant has not paid rent for February, March and April of 2022.

Pursuant to section 55(1.1) of the Act, I must grant the landlord **\$4,650.00** for unpaid rent of February, March and April 2022 rent as monthly rent was \$1,550.00 and the tenant did not vacate the rental unit until April 18, 2022. Pursuant to section 67 of the Act, I grant the landlord a monetary order of **\$4,650.00** as the tenant owes the landlord that amount for unpaid rent.

I find that the tenant breached section 26 of the Act which requires that monthly rent be paid on the date that it is due.

Conclusion

The application is dismissed in full without leave to reapply.

The landlord is granted a monetary order of \$4,650.00 as indicated above. The monetary order will be emailed to the landlord only for service on the tenant, if necessary. Should the landlord require enforcement of the monetary order, the order must be first served on the tenant with a demand for payment letter and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. I caution the tenant that they can be held liable for all costs related to enforcement of the monetary order.

This decision will be emailed to both parties at the email addresses confirmed by the landlord and the email address for the tenant provided in the tenant's application. The 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: May 30, 2022

Residential Tenancy Branch