



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the tenant: CNR, MNDC, LRE, LAT, FF
For the landlord: OPR-DR, MNR-DR, FF

Introduction

This hearing was convened as the result of the cross applications for dispute resolution (application) of the parties seeking remedy under the Residential Tenancy Act (Act).

The tenant on February 27, 2022, applied for:

- an order cancelling the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice) issued by the landlord;
- compensation for a monetary loss or other money owed;
- an order suspending or setting conditions on the landlord's right to enter the rental unit;
- authorization to change the locks to the rental unit;
- recovery of the cost of the filing fee.

The landlord on February 26, 2022, applied for:

- an order of possession of the rental unit pursuant to the 10 Day Notice served to the tenant;
- a monetary order for unpaid rent and unpaid utility charges;
- recovery of the cost of the filing fee.

The landlord attended the hearing; the tenant did not attend. The landlord said that he was not served the tenant's application.

The landlord's dispute began as an application via the ex-parte Direct Request process and was adjourned to a participatory hearing based on the Interim Decision by an

adjudicator with the Residential Tenancy Branch (RTB), dated March 29, 2022, which should be read in conjunction with this decision.

As the tenant did not attend the hearing, service of the landlord's Notice of a Dispute Resolution Hearing (Notice of Hearing), application and documentary evidence was considered.

The landlord testified that the tenant was served the Notice of Reconvened Hearing, the interim decision, and all other required documents by registered mail on March 31, 2022. The landlord provided the Canada Post tracking number as proof of service. The tracking number is located on the style of cause page of this Decision.

Based on the landlord's testimony and evidence, I find the tenant was sufficiently served under the Act and the hearing proceeded in the tenant's absence.

The hearing proceeded in the tenant's absence and continued for 17 minutes. The landlord was provided the opportunity to present his evidence and submissions orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the oral and written evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary and Procedural Matter –

Despite having their own hearing scheduled for 11:00 am on June 9, 2022, the tenant failed to attend 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 their entire application dismissed, without leave to reapply.**

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, unpaid utility charges, and recovery of the cost of the filing fee?

Background and Evidence

The landlord submitted a written tenancy agreement showing a tenancy start date of April 1, 2021, monthly rent of \$1,100 due on the first day of the month, and a security deposit of \$550 being paid to the landlord. The written tenancy agreement included addendums which required the tenant to pay 30 percent of the utilities, with the exclusion of water. The rental unit is in the basement of a home owned and occupied by the landlord on the upper level.

The landlord submitted evidence that on February 16, 2022, he served the tenant with the Notice, by attaching it to the tenant's door, listing a total unpaid rent of \$2,200 and unpaid utility charges of \$224 owed as of the date of the Notice. The effective vacancy date listed on the Notice was February 25, 2022. The Notice was filed into evidence by both parties.

The landlord stated that the tenant did not provide a notice to vacate and had left his personal property in the rental unit, but vacated the rental unit sometime in March 2022. The landlord confirmed he was no longer seeking an order of possession of the rental unit.

The landlord submitted that the tenant failed to pay the monthly rent for March 2022, and has failed to pay the amount listed on the 10 Day Notice or the unpaid utility charges. The landlord requested that the unpaid monthly rent for March be included with his monetary claim. In total, the landlord said the tenant owed the amount of \$3,300 for unpaid rent through March 2022, and the unpaid utility charges of \$224.

In support of his claim for unpaid utility charges, the landlord said that the tenant failed to pay the utility charges owed, despite being given the bills and a written demand for payment. Filed in evidence was a written demand for the payment of utilities and copies of utility bills.

Analysis

I have reviewed a copy of the 10 Day Notice and I find it complies with the requirements of section 52 of the Act as to form and content.

Monetary Order –

Under 4.2 of the Rules, a landlord may amend their application at the hearing in circumstances that can be reasonably anticipated, such as when the amount of rent owing has increased since the time the application for dispute resolution was made.

I find it reasonable under the circumstances to allow the landlord to increase his monetary claim for unpaid monthly rent as the tenant did not vacate the rental unit until sometime in March 2022, without any further rent payments.

I therefore find the landlord has provided sufficient, undisputed evidence to show that he served the tenant with the 10 Day Notice and that the tenant owed, but did not pay the monthly rent owed under the tenancy agreement. For this reason, I find the landlord established a total monetary claim for unpaid rent in the amount of \$3,300, or \$1,100 for the months of January, February and March 2022, each.

As to the landlord's claim for unpaid utility charges, section 46(6) of the Act allows a landlord to include this amount on the 10 Day Notice if the tenancy agreement requires the tenant to pay the charges. The landlord's undisputed evidence is that the tenant was required to pay utility costs per the tenancy agreement.

I therefore find the landlord has provided sufficient, undisputed evidence to show the tenant owed, but did not pay the amount of the utilities established by their tenancy agreement. For this reason, I find the landlord established a total monetary claim for unpaid utility charges in the amount of **\$224**.

I grant the landlord a monetary award of \$100 for recovery of the filing fee paid for his application.

I grant the landlord's monetary claim for the amount of **\$3,624**, comprised of unpaid rent through March 2022 of \$3,300, unpaid utility charges of \$224, and recovery of the filing fee of \$100.

At the landlord's request, I authorize the landlord to retain the tenant's security deposit of \$550, in partial satisfaction of his monetary claim \$3,624, and grant the landlord a monetary order in the amount of **\$3,074**, for the balance due, pursuant to section 67 of the Act.

Should the tenant fail to pay this amount to the landlord 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 application is dismissed due to their failure to attend the hearing to present evidence in support of their own application and to respond to the landlord's application.

The landlord's application for a monetary order for unpaid rent and unpaid utility charges has been granted in the above terms.

The landlord's application for an order of possession of the rental unit was considered moot, as the tenant vacated the rental unit sometime in March 2022, without notice to the landlord.

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(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: June 09, 2022

Residential Tenancy Branch