



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, LRE, LAT, FFT

Introduction

This hearing was convened in response to three applications by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 46;
2. An Order for the Landlord’s compliance - Section 62;
3. An Order restricting the Landlord’s entry - Section 70;
4. An Order allowing a lock change - Section 70; and
5. An Order to recover the filing fees for each application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an order of possession and a monetary order for unpaid rent?

Is the Tenant entitled to orders in relation to the Landlord’s compliance, the Landlord’s entry or a lock change?

Is the Tenant entitled to recovery of their filing fees?

Background and Evidence

The following are agreed or undisputed facts: The tenancy under written agreement started on November 1, 2019. Only Tenant PG is named as a tenant under the agreement. Rent of \$5,200.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$2,000.00 as a security deposit. The Tenant failed to pay rent for May 1, 2022 and on May 2, 2022 the Landlord posted a 10-day

notice to end tenancy for unpaid rent dated May 2, 2022 (the "Notice"). The Tenant received the Notice on May 3, 2022. On May 4, 2022 the Tenant paid \$2,000.00 to the Landlord for May 2022 rent. The Tenant paid the full June 2022 rent, owes \$2,000.00 for unpaid July 2022 rent and paid no rent for August 2022.

The Tenant states that they thought the remaining May 2022 rent of \$3,200.00 was paid. The Landlord states that this rent was not paid. The Landlord seeks an order of possession effective August 31, 2022 and a monetary order for unpaid rent.

Analysis

Section 55(1) and Section 55(1.1) of the Act provides that if a notice to end tenancy for the non-payment of rent complies in form and content and if the director dismisses the tenant's application or upholds the landlord's notice, the director must grant an order of possession and an order requiring the payment of unpaid rent. The Tenant's evidence on the payment of the remaining amount of \$3,200.00 for May 2022 was uncertain and there was no evidence of when the remaining amount was thought to be paid. Given this vague evidence I prefer the Landlord's evidence and find on a balance of probabilities that rent of **\$3,200.00** was not paid for May 2022. The Notice is therefore valid for ending the tenancy. I dismiss the Tenant's claim to cancel the Notice and I grant the Landlord an order of possession effective August 31, 2022. Based on the agreed facts that the Landlord is owed additional unpaid rent of **\$7,200.00** to the end of August 2022 I find that the Tenant must pay the Landlord a total amount of **\$10,400.00** in unpaid rent. As only Tenant PG is named on the tenancy agreement, I make the monetary order accordingly.

As the claims in relation to the Landlord's entry and locks are only relevant to an ongoing tenancy, I dismiss these claims. As none of the Tenant's claims have had success, I find that the Tenant is not entitled to recovery of the filing fees and in effect all three applications are dismissed in their entirety.

Section 72(2)(b) of the Act provides that if the director orders a party to a dispute resolution proceeding to pay any amount to the other, the amount may be deducted in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant. Deducting the security deposit of **\$2,000.00** plus zero interest from the Landlord's entitlement of **\$10,400.00** leaves **\$8,400.00** owed to the Landlord.

Conclusion

The Tenant's applications are dismissed.

I grant an Order of Possession to the Landlord effective 1:00 p.m. on August 31, 2022. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the Landlord retain the **deposit** and interest of \$2,000.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$8,400.00**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: August 23, 2022

Residential Tenancy Branch