



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code CNR, RP

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution made on April 7, 2022. At that time, the Tenant applied for the following relief, pursuant to the Residential Tenancy Act (the Act):

- an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 2, 2022 (the April 10 Day Notice); and
- an order that the Landlord make repairs to the unit, site, or property.

The Tenant also submitted an Amendment on June 13, 2022, disputing a 10 Day Notice to End Tenancy dated June 3, 2022 (the June 10 Day Notice).

The Tenant attended the hearing on his own behalf. The Landlord attended the hearing and was assisted by his son, AF. All in attendance provided a solemn affirmation.

The Tenant testified the Notice of Dispute Resolution Proceeding package and an Amendment were served on the Landlord on in person. The Landlord disagreed with the method of service but acknowledged receipt of these documents.

The Landlord testified the evidence upon which they intend to rely was served on the Tenant in person. The Tenant acknowledged receipt of these documents.

No further issues were raised with respect to service or receipt of these documents during the hearing. The parties were in attendance and were prepared to proceed. Therefore, pursuant to section 71 of the Act, I find the above documents were sufficiently served for the purposes of the Act.

The parties were advised that Rule of Procedure 6.11 prohibits the recording of dispute resolution hearings.

The parties were given a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Tenant entitled to an order cancelling the April 10 Day Notice?
2. Is the Tenant entitled to an order cancelling the June 10 Day Notice?
3. Is the Tenant entitled to an order that the Landlord make repairs to the unit, site, or property?
4. Is the Landlord entitled to an order of possession pursuant to section 55(1) of the Act?
5. Is the Landlord entitled to a monetary order for unpaid rent pursuant to section 55(1.1) of the Act?

Background and Evidence

The parties agreed the tenancy began on or about November 1, 2015. Currently, rent of \$660.00 per month is due on the first day of each month. The Tenant paid a security deposit in the amount of \$300.00, which the Landlord holds.

The Landlord testified that the April 10 Day Notice was served on the Tenant by attaching a copy to the Tenant's door on April 2, 2022. The Tenant could not recall the day it was received but acknowledged it was received by April 7, 2022, the date on which the application was made. The April 10 Day Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date of the notice, states the grounds for ending the tenancy, and is in the approved form.

The Landlord testified that rent of \$3,000.00 currently remains outstanding, calculated as follows:

Rent due date	Rent paid	Rent outstanding
April 1, 2022	\$0	\$660.00
May 1, 2022	\$0	\$660.00
June 1, 2022	\$200.00	\$460.00
July 1, 2022	\$100.00	\$560.00
August 1, 2022	\$0	\$660.00
TOTAL:		\$3,000.00

The Tenant did not dispute that rent has not been paid as alleged but testified there are bedbugs in the rental unit that are not being adequately addressed by the Landlord. The Tenant testified the bedbugs were not treated until a “pretty” tenant moved into the rental property. The Tenant testified that the bedbugs have cost him \$2,000.00 in beds.

The Tenant also testified that a change from Short Term Disability to Long Term Disability was an issue that impacted his ability to pay rent.

In response to the Tenant’s testimony concerning bedbugs, AF testified that the Landlord has been hiring a pest control company for a long time and submitted receipts for treatments in support. AF also testified that the Tenant has not allowed access to the rental unit for scheduled treatments, impacting the effectiveness of the treatments.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 26 of the Act confirms a tenant must pay rent when due whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Section 46 of the Act permits a landlord to take steps to end a tenancy when rent remains unpaid on any day after the day it is due.

In this case, pursuant to sections 88 and 90 of the Act, I find the April 10 Day Notice is deemed to have been received by the Tenant on April 5, 2022, three days after it was attached to the Tenant's door. I find that the Tenant disputed it on time in accordance with section 46(4) of the Act. I also find the 10 Day Notice complies with the form and content requirements of section 52 of the Act.

With respect to unpaid rent, I accept the undisputed evidence of the Landlord who testified that the Tenant has not paid rent in full and that \$3,000.00 remains unpaid. I do not accept that the Tenant's concerns about bedbugs are a sufficient basis to withhold rent under the Act. Indeed, I was not referred to any provision in the Act in support. Accordingly, I find the Tenant's request to cancel the April 10 Day notice is dismissed without leave to reapply.

Section 55(1) of the Act states that when a tenant's application to cancel a notice to end tenancy is dismissed and the notice to end tenancy complies with the form and content requirements of section 52 of the Act, the director must issue an order of possession in favour of the landlord. As the Tenant's request to cancel the April 10 Day Notice has been dismissed and I have found the April 10 Day Notice complies with the form and content requirements of section 52 of the Act, I grant the Landlord an order of possession which will be effective two days after it is served on the Tenant.

In addition, section 55(1.1) confirms that when a tenant's application to cancel a notice to end tenancy for unpaid rent or utilities is dismissed and the notice to end tenancy complies with the form and content requirements of section 52 of the Act, the director must grant an order requiring payment of the unpaid rent. As the Tenant's request to cancel the April 10 Day Notice has been dismissed and I have found the April 10 Day Notice complies with the form and content requirements of section 52 of the Act, I grant the Landlord a monetary order for unpaid rent in the amount of \$3,000.00.

As the tenancy is ending based on the April 10 Day Notice, I find it is not necessary for me to consider the Tenant's request for an order cancelling the June 10 Day Notice, or the Tenant's request for an order that the Landlord make repairs to the unit, site, or property. These aspects of the Tenant's application are dismissed without leave to reapply.

Conclusion

The Tenant's application is dismissed without leave to reapply.

Pursuant to section 55(1) of the Act, the Landlord is granted an order of possession which will be effective two days after it is served on the Tenant. The order of possession must be served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

Pursuant to section 55(1.1) of the Act, the Landlord is granted a monetary order for unpaid rent in the amount of \$3,000.00. The monetary order must be served on the Tenant. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: August 9, 2022

Residential Tenancy Branch