



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding JKS Realty and Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

xxxxxx3855 – CNC
xxxxxx 1667 – OPR-DR, MNR-DR, FFL
xxxxxx 1569 - CNR
xxxxxx 8543 - OPR-DR, MNR-DR, FFL
xxxxxx 8584 – CNR

Introduction

This hearing dealt with 3 applications by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- Cancellation of One Month Notice to End Tenancy for Cause (“One Month Notice”) pursuant to section 47;
- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (“Ten Day Notice”) pursuant to section 46;
- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (“Ten Day Notice”) pursuant to section 46;

This hearing also dealt with two applications by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for possession under: two 10-Day Notices to End Tenancy (July 5, 2022 **xxxxx 8543** and August 2, 2022(**xxxxx 1667**)) for Unpaid Rent pursuant to sections 46 and 55;
- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

This matter was set for hearing by telephone conference.

The landlord attended with the agents JK and JP ("the landlord"). The landlord had opportunity to provide affirmed testimony, present evidence and make submissions. The hearing process was explained.

The landlord testified they were not recording the hearing.

The landlord confirmed the email address to which the Decision shall be sent.

1. Preliminary Issue – Name of Landlord

The landlord's two applications and the tenant's 3 applications reference the landlord by the name of the corporate agent (JKS) and/or the name of the corporate property owner (MWT).

The landlord requested that the name of the landlord be amended in all applications so that both names are stated to be the landlord.

Accordingly, the applications are so amended, and the landlord's name is changed to include both names JKS and MWT.

2. Attendance by Tenant

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 40 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

3. Preliminary Issue - Dismissal of Tenant's Applications

Rule 7.3 of the Rules of Procedure provides that 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.

Rule 7.4 states that 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 to present evidence, any written submissions supplied may or may not be considered. Only the evidence referred to by the landlord was used in this this decision.

As the tenant has not attended the hearing and presented evidence, and the landlord has attended, I dismiss the tenant's applications without leave to reapply as follows:

| | |
|-------------------------|---|
| xxxxx3855 – CNC | Dismissed without leave to reapply |
| xxxxx 1569 - CNR | Dismissed without leave to reapply |
| xxxxx8584 – CNR | Dismissed without leave to reapply |

4. Preliminary Issue – Monetary Order

The landlord proceeded to request a Monetary Order and Order of Possession under the 10 Day Notice dated July 5, 2022, under file **xxxxx 8543**.

The landlord requested a Monetary Order as follows:

| ITEM | AMOUNT |
|-------------------------|-------------------|
| Outstanding rent | \$6,746.04 |
| Filing fee x 2 | \$200.00 |
| (Less security deposit) | (\$462.00) |
| TOTAL | \$6,484.04 |

5. Preliminary Issue – Order of Possession

The landlord requested an Order of Possession pursuant to the 10 Day Notice dated July 5, 2022, file **xxxxx 8543**.

6. Preliminary Issue - 10 Day Notice dated August 2, 2022 and One Month Notice

The landlord proceeded only with respect to the 10 Day Notice of July 5, 2022.

Accordingly, the landlord's 10 Day Notice of August 2, 2022 and One Month Notice are dismissed without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession pursuant to the 10 Day Notice dated July 5, 2022?

Is the landlord entitled to a Monetary Order as requested?

Background and Evidence

Relevant evidence, complying with the Rules of Procedure, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the specific issues of this dispute, and to explain the decision, is reproduced below.

The landlord provided uncontradicted testimony as the tenant did not attend the hearing.

Tenancy Agreement

The landlord submitted a copy of the tenancy agreement. The tenancy began on May 29, 2020. Monthly rent is currently \$938.88. Rent is due on the first day of the month.

At the beginning of the tenancy, the tenant provided a security deposit of \$462.00.

One Month Notice

The landlord served the One Month Notice by posting to the tenant's door on May 10, 2022. A copy of the One Month Notice was in evidence, and it appears to have been completed correctly (in compliance with section 52 of the Act). The Notice stated the effective date is May 29, 2022, corrected to June 30, 2022. The reason stated for ending the tenancy was that the tenant was repeatedly late paying rent.

The landlord testified, and provided documentary evidence in support, that the tenant was late in November and December 2021, and January, February, March and April, 2022. The tenant stopped paying rent and owes \$6,746.04.

A rent ledger and payment history document were submitted.

10 Day Notice (file xxxxx 8543

The landlord testified they issued a 10 Day Notice on July 5, 2022, showing \$2,915.52 was outstanding for rent. The Notice was served by posting to the tenant's door on July 5, 2022, thereby effecting service on July 8, 2022. A copy of the 10 Day Notice was submitted which is in the standard RTB form. The effective date of the Notice was July 18, 2022. The Notice stated the tenant had 5 days to pay the rent or file an Application for Dispute Resolution.

The landlord submitted a signed Proof of Service document and a photograph of the posting.

The tenant disputed the 10 Day Notice on July 14, 2022, outside 5 days. The tenant's application to cancel the 10 Day Notice has been dismissed.

The landlord testified the tenant has not paid any rent after the issuance of the 10 Day Notice and the outstanding rent is now \$6,746.04. The landlord requested a Monetary Order in this amount.

The landlord requested authorization to apply the security deposit to the award.

The landlord requested reimbursement of the cost of two filing fees.

The landlord requested an award as follows:

| ITEM | AMOUNT |
|-------------------------|-------------------|
| Outstanding rent | \$6,746.04 |
| Filing fee x 2 | \$200.00 |
| (Less security deposit) | (\$462.00) |
| TOTAL | \$6,484.04 |

Analysis

I have reviewed the uncontradicted and credible evidence of the landlord which I accept in all aspects. I make the following findings.

10 Day Notice

I find the form and content of the 10 Day Notice of July 5, 2022 complies with section 52 of the Act.

I accept the landlord's testimony that the tenant was served with the 10 Day Notice as testified and in accordance with the Act.

I accept the landlord's testimony and documentary evidence and find the tenant did not pay the overdue amount and stopped paying rent thereafter. I also accept the landlord's testimony and documentary evidence that outstanding rent is as testified.

The tenant has not attended the arbitration. The tenant has not filed an Application for Dispute Resolution within the 5-day period. I have dismissed the tenant's Application for Dispute Resolution.

Pursuant to section 46(5), the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice requiring the tenant to vacate the rental unit on July 18, 2022. The effective date of the Notice has passed.

The landlord testified the tenant remains in the unit.

Order of Possession

Based on the uncontradicted testimony and documentary evidence of the landlord, I find the landlord has met the burden of proof on a balance of

probabilities and I grant the landlord an Order of Possession pursuant to sections 46 and 55.

Monetary Order

Based on the uncontradicted testimony and documentary evidence of the landlord, I find the landlord has met the burden of proof on a balance of probabilities and grant the landlord a Monetary Order pursuant to section 67 as requested.

Filing Fee

As the landlord has been successful in these applications, I award the landlord reimbursement of the filing fee of \$200.00 pursuant to section 72. *Security deposit*

I authorize the landlord to apply the security deposit to the award pursuant to section 72.

Summary of Award

My award is summarized as follows.

| ITEM | AMOUNT |
|-------------------------|-------------------|
| Outstanding rent | \$6,746.04 |
| Filing fee x 2 | \$200.00 |
| (Less security deposit) | (\$462.00) |
| TOTAL | \$6,484.04 |

Conclusion

I Order as follows:

| | |
|----------------------------------|--|
| xxxxx3855 – CNC | Dismissed without leave to reapply |
| xxxxx 1667 – OPR-DR, MNR-DR, FFL | Dismissed without leave to reapply |
| xxxxx 1569 - CNR | Dismissed without leave to reapply |
| xxxxx 8543 - OPR-DR, MNR-DR, FFL | Order of Possession and Monetary Order granted |
| xxxxx 8584 – CNR | Dismissed without leave to reapply |

The landlord is granted an Order of Possession effective on 2 days notice.

The landlord is granted a Monetary Order for **\$6,484.04**.

These Orders must be served on the tenant. The Orders may be filed and enforced in the Courts of the Province of BC.

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: October 31, 2022

Residential Tenancy Branch