



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNR, DRI-ARI-C, OLC, RP, OPR-DR, MNR-DR, FFL**

Introduction

This hearing was convened by way of conference call in response to cross Applications for Dispute Resolution filed by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows

The Tenant applied as follows:

- For cancellation of the landlord’s 10 Day Notice pursuant to section 46 of the *Act*
- For repairs to the unit pursuant to section 32 of the *Act*
- To comply with the Act, regulation, and/or tenancy agreement pursuant to section 62 of the *Act*
- To dispute an additional rent increase for capital expenditures pursuant to section 43 of the *Act*

The Landlord applied as follows:

- For a monetary order for unpaid rent pursuant to section 67 of the *Act*
- For an order of possession pursuant to section 55 of the *Act*
- For reimbursement of the filing fee pursuant to section 72 of the *Act*

The landlords attended the hearing represented by landlord MS, and a translator BS. The tenant, DS did not appear. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The parties confirmed they were not recording the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The landlord stated that he served the 10 Day Notice dated June 4, 2022, with an effective date of June 18, 2022 on the tenant by attaching it to the wall next to the door of the rental property. Pursuant to section 71 of the Act, the tenant is deemed to have been sufficiently served as of June 7, 2022.

The landlord testified that he served the dispute notice and respective materials in support of his application by registered mail sent July 13, 2022. He produced a receipt in evidence for registered mail dated July 13, 2022 along with a Canada Post tracking number for the parcel. Based on his testimony and documentation I find that the tenant was deemed served in accordance with sections 88, 89, and 90 of the *Act* on July 18, 2022.

Preliminary Issues

Amendment to Landlord's Application

The landlord advised that the correct names of the landlords appear on the tenancy agreement dated December 31, 2021. I amend the name of the landlord to reflect that the landlords are listed as described at the hearing.

Dismissing Tenant's Application

The tenant did not appear at the hearing. Therefore, pursuant to section 81(1)(c) of the Act and Rule 7.3 of the RTB Rules of Procedure his application for dispute resolution is dismissed without leave to reapply.

Issue(s) to be Decided

1. Is the 10 Day Notice to End Tenancy for Unpaid Rent valid and enforceable against the tenant? If so, is the Landlord entitled to an Order of Possession?
2. Is the landlord entitled to a Monetary Order for unpaid rent?
3. Is the landlord entitled to reimbursement for filing fees?

Background and Evidence

The tenancy commenced on January 1, 2022, on a month-to-month basis. Rent is \$1,350.00 per month and the landlord holds a security deposit of \$675.00 in trust for the tenant. The tenant still occupies the rental property.

The landlord advised that the tenant stopped paying rent as of April 1, 2022. He then served the 10 Day Notice on June 4, 2022. The tenant has not paid rent for April through October 2022, inclusive. He referred to the monetary request worksheet that he filled out and stated that the amount included in the worksheet only reflected unpaid rent from April to June 2022. He confirmed that the tenant also has not paid rent from July through October 2022 and he requested an order for all of the unpaid rent from April through October, 2022. I therefore amend the landlord's application pursuant to section 64(3)(c) of the Act to reflect that the requested amount of unpaid rent is $7 \times \$1350.00 = \9450.00 . He is seeking both an order of possession for the rental unit as well as a monetary order for the unpaid rent.

Analysis

The 10 Day Notice complies with the form and content requirements of section 52 of the Act and was properly served on the tenant. I find that the 10 Day Notice is valid and enforceable, and the landlord is entitled to an order of possession for the rental property.

Section 55 of the Act states:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with [section 52](#) [form and content of notice to end tenancy], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

(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.

Both circumstances in section 55(1)(a) and (b) apply to this matter.

In this case, the onus is on the landlord to prove entitlement to a claim for a monetary award. The landlord verbally stated that rent was unpaid for the months of April through October, 2022. He also provided a monetary order worksheet showing that rent was owing for April through June 2022. The tenancy agreement submitted shows that the rent was \$1,350.00 per month. Based on the uncontradicted evidence before me I find that the landlord has satisfied his onus and established that rent has not been paid by the tenant from April 1, 2022 through October 2022. The landlord is entitled to a monetary order for unpaid rent.

As the landlord was successful in his application, he is also entitled to recover the filing fee for his application.

I allow the landlord to retain the \$675.00 security deposit in partial satisfaction of the money owed to the landlord. Pursuant to section 67 of the *Act*, I find that the landlord is entitled to a monetary order in the amount of \$8,875.00 which has been calculated as follows:

| Claim | Amount |
|------------------------|-------------------|
| Unpaid rent (1350 x 7) | \$9,450.00 |
| Filing Fee | \$100.00 |
| Less security deposit | (-\$675.00) |
| Total | \$8,875.00 |

Conclusion

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.

The landlord is granted a monetary order in the amount of \$8,875.00. 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: October 19, 2022

Residential Tenancy Branch