



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, MNDCT, FFT

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a residential tenancy dispute. The tenant applied on May 12, 2022 for:

- an order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent, dated May 9, 2022 (the 10 Day Notice);
- an order for the landlord to comply with the Act, regulation, and/or tenancy agreement;
- compensation for monetary loss or other money owed; and
- the filing fee.

The hearing started at 9:30 a.m. The tenant did not attend, though the teleconference line remained open for the duration of the hearing. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; he was also made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

Rule 7.3 permits an arbitrator to conduct a hearing in the absence of any party, or dismiss the application with or without leave to re-apply.

Preliminary Matters

The landlord testified the tenant did not serve the Notice of Dispute Resolution Proceeding (NDRP) on the landlord. Based on the landlord's affirmed undisputed testimony, I find the tenant failed to serve the NDRP on the landlord in accordance with section 89 of the Act. Therefore, I dismiss the tenant's application without leave to reapply.

The landlord testified the tenant abandoned the unit between August 22 and September 3, 2022. The landlord testified he is seeking to recover unpaid rent, but not an order of possession.

Issue to be Decided

As the tenant's application to cancel the 10 Day Notice is dismissed, is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord provided the following particulars of the tenancy. It began July 2021, and rent was \$1,525.00.00, due on the first of the month.

As the tenant had not submitted a copy of the 10 Day Notice as evidence, I permitted the landlord to do so following the hearing. The landlord testified that the 10 Day Notice was served on the tenant by posting it to the door on May 9, 2022.

The 10 Day Notice is signed and dated May 9, 2022 by the landlord, gives the address of the rental unit, states an effective date of May 19, 2022, states the reason for ending the tenancy, and is in the approved form. The 10 Day Notice indicates the tenancy is ending because the tenant failed to pay rent in the amount of \$925.00, due May 1, 2022.

The landlord testified that the tenant also owes rent in the amount of \$1,525.00 for September 2022.

Analysis

Pursuant to section 46(1) of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

Based on the testimony of the landlord that he served the 10 Day Notice on the tenant by posting it to the door on May 9, 2022, I find the landlord served the Notice on the tenant in accordance with section 88 of the Act, and deem it received by the tenant on May 12, 2022, pursuant to section 90 of the Act.

I find the 10 Day Notice meets the form and content requirements of section 52, as it is signed and dated by the landlord, gives the address of the rental unit, states an effective date, states the reason for ending the tenancy, and is in the approved form.

I accept the landlord's undisputed affirmed testimony that the tenant owes outstanding rent in the amount of \$925.00 for May 2022 and \$1,525.00 for September 2022, totalling \$2,450.00.

Section 55(1) of the Act provides 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, an arbitrator must grant an order of possession to the landlord.

Section 55(1.1) provides that if an application referred to in 55(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 section 55(1) apply, an arbitrator must grant an order requiring the payment of the unpaid rent.

Therefore, having dismissed the tenant's application to cancel the 10 Day Notice, and finding that the Notice meets the form and content requirements of section 52, I find the landlord is entitled to a monetary order for unpaid rent.

Pursuant to section 55(1.1) of the Act, I find the landlord is entitled to a monetary order for unpaid rent in the amount of \$2,450.00.

Conclusion

The tenant's application is dismissed.

The landlord is granted a monetary order in the amount of \$2,450.00. 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 07, 2022

Residential Tenancy Branch