



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR MNDCT

Introduction

This hearing dealt with an Application for Dispute Resolution (application) by the tenant seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 10 Day Notice for Unpaid Rent or Utilities (10 Day Notice), for a monetary claim of \$700 for compensation for monetary loss or other money owed. The filing fee was waived.

The tenant was provided with a copy of the Notice of a Dispute Resolution Proceeding dated September 27, 2022 (Notice of Hearing) when they made their application. The tenant, however, did not attend the hearing set for October 25, 2022 at 9:30 a.m. Pacific Time. The phone line remained open for 16 minutes and was monitored throughout this time. The only person to call into the hearing was landlord agent, SR (agent) who was ready to proceed.

Preliminary and Procedural Matters

The agent confirmed their email address and was advised that the Decision and any applicable orders would be emailed to them. The applicant tenant provided their email address on the application and as a result, the Decision will be emailed to the tenant.

Issues to be Decided

- Should the tenant's application be dismissed without leave to reapply due to the tenant failing to attend the dispute resolution hearing?
- If yes, is the landlord entitled to a monetary order for any rent owing?

Background and Evidence

The agent testified that since filing their application, the tenant vacated the rental unit on September 16, 2022. The agent stated that an order of possession is not required as the landlord already has possession back of the rental unit.

The agent testified that the tenant owes \$1,400 in unpaid rent for September 2022 since the 10 Day Notice was served. The agent is seeking a monetary order of \$1,400.

Analysis

Based on the documentary evidence and the undisputed testimony of the agent provided during the hearing, and on the balance of probabilities, I find the following.

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3 apply and state:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.3 Consequences of not attending the hearing

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.

Given the above and following the 10-minute waiting period, the application of the tenant was **dismissed without leave to reapply**. This decision does not extend any applicable time limits under the Act. The respondent attended the hearing, yet the applicant tenant did not attend the hearing to present the merits of their application.

As the filing fee was already waived, it is not granted.

Section 55(1.1) of the Act applies and states:

55(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.**

[emphasis added]

Pursuant to section 55(1.1) of the Act, I grant the landlord **\$1,400** for unpaid rent for September 2022 as monthly rent was \$1,400 and the tenant did not vacate until after September 2022 rent was due.

Conclusion

The tenant's application is dismissed in full without leave to reapply.

The landlord is granted a monetary order of \$1,400 for unpaid rent for September 2022. The monetary order will be emailed to the landlord only for service on the tenant, if necessary. Should the landlord require enforcement of the monetary order, the order must be first served on the tenant with a demand for payment letter and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. I caution the tenant that they can be held liable for all costs related to enforcement of the monetary order.

This Decision will be emailed to both parties as indicated above.

The monetary order will be emailed to the landlord only for service on the tenant.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: November 7, 2022

Residential Tenancy Branch