



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenants: CNR, RR, OLC; CNR, FFT
Landlords: OPR, MNRL, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear crossed applications regarding a residential tenancy dispute.

On June 16, 2022 the tenants applied for:

- an order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated June 9, 2022, requesting more time to apply to dispute the notice;
- an order for the landlord to provide services or facilities required by the Act, regulation, or tenancy agreement; and
- an order for the landlord to comply with the Act, regulations, or tenancy agreement.

On September 13, 2022, the tenants applied for:

- an order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, not submitted as evidence;
- an order for the landlord to comply with the Act, regulations, or tenancy agreement;
- an order for the landlord to provide services or facilities required by the Act, regulation, or tenancy agreement; and
- the filing fee.

On September 20, 2022 the landlord applied for:

- an order of possession for the rental unit, having issued a 10 Day Notice to End Tenancy, dated September 8, 2022 (the 10 Day Notice);
- a monetary order for unpaid rent; and
- the filing fee.

Those in attendance were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

As the tenant testified she did not serve her Notice of Dispute Resolution Proceeding (NDRP) and evidence for her June 16, 2022 application on the landlords, and the landlords declined to waive their right to service, I dismiss the tenants' June 16, 2022 application with leave to reapply.

The tenant testified she served the NDRP and evidence for her September 13, 2022 application on the landlords by sending it by unregistered mail to the landlords' address for service. As the landlords testified they did not receive the NDRP, and the tenant did not provide proof of service, I am not satisfied the landlords were served in accordance with the Act. The landlords declined to waive their right to service. Therefore, I dismiss the tenants' September 13, 2022 application with leave to reapply.

The tenant confirmed she received the landlord's Notice of Dispute Resolution Proceeding (NDRP) and evidence.

Issues to be Decided

- 1) Are the landlords entitled to an order of possession?
- 2) Are the landlords entitled to a monetary order for unpaid rent?
- 3) Are the landlords entitled to the filing fee?

Background and Evidence

The tenant testified that the tenancy began June 10, 2021. The landlord testified they purchased the property in May 2022.

The parties agreed that rent is \$1,600.00 a month, due on the first of the month.

The tenant testified they paid the previous landlord a security deposit of \$925.00; the landlord testified that the previous landlord did not inform them of that. The landlord testified they do not hold a security deposit on behalf of the tenants.

A copy of the 10 Day Notice is submitted as evidence. It is signed and dated by the landlord, gives the address of the rental unit, states an effective date, states the grounds for ending the tenancy, and is in the approved form.

The reason indicated on page 2 of the 10 Day Notice is that the tenants have failed to pay rent in the amount of \$4,200.00 due on September 1, 2022.

The landlord testified the 10 Day Notice was served on the tenants by posting it to the door on September 8, 2022. The tenant testified that she received it on September 9, 2022.

The landlord and tenant agreed that that the tenants made rent payments as follows:

Month in 2022	Rent	Rent paid	Monthly outstanding
July	\$1,600.00	\$0.00	\$1,600.00
August	\$1,600.00	\$600.00	\$1,000.00
September	\$1,600.00	\$600.00	\$1,000.00
October	\$1,600.00	\$0.00	\$1,600.00
November	\$1,600.00	\$0.00	\$1,600.00
Total			\$6,800.00

The landlord submitted as evidence bank statements which support the testimony of the landlord and tenant on rent payments as noted above.

Analysis

Section 46(1) permits a landlord to 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 parties, I find the 10 Day Notice was served on the tenants by posting it to the door on September 8, 2022, in accordance with section 88 of the Act, and that the tenants received it on September 9, 2022.

Section 46(2) requires that notice under the section must comply with section 52 *[form and content of notice to end tenancy]*.

I find that the landlords' 10 Day Notice meets the form and content requirements of section 52 of the Act, as it is signed and dated, gives the address of the rental unit, states an effective date of the notice, states the reasons for ending the tenancy, and is in the approved form.

The landlords provided testimony on the rent payments made by the tenants, and submitted documentary evidence in support; the tenant's testimony on rent payments agreed with that of the landlord.

Based on the foregoing, I find that rent remains unpaid in the amount of \$6,800.00.

I find that the tenants have failed to pay the rent owing under the tenancy agreement. I find that the landlords are entitled to an order of possession and a monetary award for outstanding rent in the amount of \$6,800.00.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the landlords are successful in their application, I order the tenants to pay the \$100.00 filing fee the landlords paid to apply for dispute resolution.

I find the landlords are entitled to a monetary order for \$6,900.00, comprising \$6,800.00 for unpaid rent and \$100.00 for the filing fee.

I find it unnecessary to further consider the June 10 Day Notice, as the landlords have been granted an order of possession and a monetary order for unpaid rent pursuant to the September 10 Day Notice.

Conclusion

The tenants' applications are dismissed.

The landlords' application is granted.

The landlords are granted an order of possession which will be effective two days after it is served on the tenants. The order of possession must be served on the tenants. The order of possession may be filed and enforced as an order of the Supreme Court of British Columbia.

The landlords are granted a monetary order in the amount of \$6,900.00 for unpaid rent and recovery of the filing fee. The monetary order must be served on the tenants. 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: December 1, 2022

Residential Tenancy Branch