



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Page: 1

DECISION

Dispute Codes CNR, CNC, MNDCT, RR, RP, LRE, LAT, AS, FFT

Introduction

The tenant applied for various relief under the *Residential Tenancy Act* (the “Act”).

Three representatives for the corporate landlord (whose name was updated on the style of cause of this decision and the two orders) attended the hearing on December 30, 2022 at 11 AM. The tenant did not attend the hearing, which ended at 11:15 AM.

In an administrative hearing, the person making a claim must provide evidence that it is more likely than not that the facts occurred as claimed. This is known as the “balance of probabilities” standard of proof. The burden of proof is on the person making the claim.

Due to the tenant's absence at the hearing, their application is dismissed in full, without the possibility of re-application. As a result, the tenant's request to cancel the *10 Day Notice to End Tenancy for Unpaid Rent* is also dismissed. Consequently, the only remaining issues are whether the landlord is entitled to an order for possession of the rental unit and a monetary order for unpaid rent.

Issues

1. Is the landlord entitled to an order of possession?
2. Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

In reaching this decision, I carefully considered all relevant evidence that complied with the *Rules of Procedure*. Only the necessary oral and documentary evidence that helped resolve the issues of the dispute and explain the decision is included below.

The landlord's agent (M.G.) testified under oath as to the following facts:

The tenancy began on December 17, 2021 and monthly rent is \$1,400.00. Rent is due on the first day of the month. There is a \$700.00 security deposit held in trust by the landlord pending the outcome of this application. A copy of the written residential tenancy agreement was in evidence.

The *10 Day Notice to End Tenancy for Unpaid Rent* (the “Notice”) was served on the tenant by being attached to the door of the rental unit on July 23, 2022. A copy of the Notice was in evidence, and it indicated on page two that the tenant owed \$950.00 in rent that was due on July 1, 2022. While the tenant filed their application to dispute the Notice, they have never paid the \$950.00. She has not paid any rent since. The landlord testified that as of December 1, 2022 the tenant owes \$7,950.00 in rent arrears.

There is some indication that the tenant may have vacated the rental unit near the end of October. However, this is based on third party hearsay and there is no evidence before me definitively proving that the tenant is not still a tenant. There is also some information from third parties indicating that the tenant may have an unauthorized roommate (or “subtenant”) residing in the rental unit.

Analysis

Section 26 of the Act requires tenants to pay rent on time unless they have a legal right to withhold the rent. Section 46(1) of the Act allows landlords to end a tenancy if the tenant does not pay rent by issuing a *10 Day Notice to End Tenancy for Unpaid Rent*.

The landlord's evidence shows that the tenant did not pay the full rent on July 1, 2022, and she has not paid any rent since. Therefore, I find on a balance of probabilities that the Notice was given for a valid reason, namely, the tenant's non-payment of rent in the amount of \$950.00. I also find, after having reviewed the Notice, that the Notice complies with form and content requirements of section 52. Thus, as noted above, the tenant's application to cancel the Notice is dismissed.

Based on the above findings, the landlord is granted an order of possession under section 55(1) of the Act. A copy of the order of possession is attached to this Decision and it must be served by the landlord upon the tenant by any means permitted under section 88 of the Act.

The tenant—and this includes anyone else residing in or occupying the rental unit—has two days to vacate the rental unit from the date of service or deemed service.

Since the tenant's application relates to a section 46 notice to end tenancy, the landlord is entitled to an order for unpaid rent under section 55(1.1) of the Act. Therefore, the tenant is ordered to pay \$7,950.00 to the landlord for unpaid rent.

Under section 38(4)(b), the landlord is authorized to keep the security deposit in partial satisfaction of the payment order. A monetary order for the remainder (\$7,250.00) is attached to this Decision and it must also be served on the tenant. The monetary order is enforceable in the Provincial Court of British Columbia (Small Claims Court).

Conclusion

IT IS HEREBY ORDERED THAT:

1. The application is dismissed without leave to reapply.
2. The landlord is granted an order of possession of the rental unit.
3. The landlord is awarded \$7,950.00, is authorized to retain the \$700.00 security deposit, and is granted a monetary order for \$7,250.00.
4. The tenancy is ended effective immediately.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: December 30, 2022

Residential Tenancy Branch