



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, DRI, OLC, LRE, LAT, FFT

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy and for the recovery of the filing fee. The tenant also applied for an order directing the landlord to comply with the *Act* and allow the tenant to change locks. The tenant also applied for an order suspending the landlord's right to enter the rental unit and applied to dispute a rent increase.

Both parties attended the hearing and had opportunity to be heard. The parties gave affirmed testimony

The tenant acknowledged receipt of evidence submitted by the landlord and stated that he did not file any evidence of his own.

RTB Rules of Procedure 2.3 states that if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply. In this regard I find the tenant has applied for multiple remedies. As these sections of the tenant's application are unrelated to the main section, which is to cancel the ten-day notice, I dismiss these sections of the tenant's claim, with leave to reapply.

Accordingly, this hearing only dealt with the tenant's application to set aside the ten-day notice to end tenancy for non-payment of rent.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The tenancy started on July 01, 2022, for a fixed term of one year. The monthly rent is \$1,400.00 due on the first of each month. Prior to moving in the tenant paid a security deposit of \$700.00.

On December 01, 2022, the tenant failed to pay rent. On December 18, 2023, the landlord served the tenant with a notice to end tenancy for nonpayment of rent in the amount of \$1,400.00 plus \$50.00 for a late fee. The notice was written on the approved form and was effective December 28, 2022.

The tenant disputed the notice in a timely manner but did not pay the outstanding rent. As of the date of the hearing the tenant agreed that he owed the landlord \$2,800.00 in unpaid rent.

Analysis:

Based on the sworn testimony of both parties, I find that the tenant received the notice to end tenancy for unpaid rent, on December 18, 2022, and did not pay rent within five days of receiving the notice to end tenancy. Accordingly, I uphold the notice to end tenancy.

During the hearing, the landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55(1), I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. I grant the landlord an order of possession effective January 31, 2023. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The tenant agreed that at the time of the hearing, he owed the landlord \$2,800.00 in unpaid rent. The landlord is also claiming a late fee of \$50.00 per month.

Pursuant to s. 7(1)(d) of the Residential Tenancy Regulations:

An administration fee of not more than \$25 for the return of a tenant's cheque by a financial institution or for late payment of rent.

Since the Regulations do not permit the landlord to collect a late fee of \$50.00, I dismiss this portion of the outstanding amount due to the landlord.

I further find that the landlord is entitled to \$2,800.00 for unpaid rent. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$2,800.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Since the tenant is unsuccessful in his application, he must bear the cost of filing his application.

Conclusion

- The notice to end tenancy is upheld.
- I grant the landlord an order of possession effective January 31, 2023.
- I grant the landlord a monetary order for \$2,800.00.
- The tenant's application is dismissed in its entirety.

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: January 26, 2023

Residential Tenancy Branch