



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR

Introduction

The Tenant seeks an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) pursuant to section 46(4)(b) of the *Residential Tenancy Act* (the “Act”).

Both parties attended the hearing. The parties affirmed to tell the truth during the hearing. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

The Tenant testified they had not served the Notice of Dispute Resolution Package (the “Materials”) on the Landlord. They stated they had only informed the Landlord of the hearing by text message. The Landlord stated they contacted the Residential Tenancy Branch and obtained a courtesy copy of the Materials via email.

Analysis

Section 89 of the Act explains that one party must serve the other with their application for dispute in one of the following ways described in sections 89(1)(a) through 89(1)(d).

I find the Tenant has failed to serve the Landlord with their application for dispute in a manner prescribed and allowable under the Act as described above.

Testimony from both parties confirms that the Tenant did not serve the Materials to the Landlord. As the Tenant has failed to serve the Landlord with the Materials, I dismiss the Tenant’s Application without leave to reapply.

Section 55(1) of the Act states that if a tenant makes an application for dispute resolution seeking to cancel a landlord’s notice to end tenancy and a) the notice to end

tenancy complies with section 52 of the Act and b) the tenant's application is dismissed, then an Order of Possession must be granted to the landlord.

I find that the Notice does comply with the form and content requirements of section 52 of the Act and, as the Tenant's Application is dismissed, 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. It is the Landlord's obligation to serve the Order of Possession on the Tenants. If the Tenant does not comply with the Order of Possession, it may be filed by the Landlord with the Supreme Court of British Columbia and enforced as an order of that court. The Tenant has two days to vacate the rental unit from the date of service or deemed service. I find that the Tenancy ended on February 28, 2023 in accordance with the Notice.

Since the Application relates to a section 46 Notice to End Tenancy for Unpaid Rent, 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 \$3,600.00 in unpaid rent to the Landlord.

Under section 38(4)(b) of the Act, the Landlord is ordered to retain the security deposit in partial satisfaction of the payment order. A Monetary Order for the remaining amount is attached to this Decision and must be served on the Tenant. The Monetary Order is enforceable in the Provincial Court of British Columbia (Small Claims Court).

The Order is summarized below:

Item	Amount
Unpaid rent	\$3,600.00
Less: security deposit	(\$850.00)
Total	\$2,750.00

Conclusion

The Application is dismissed without leave to reapply.

The Landlord is issued an Order of Possession.

The Landlord is issued a Monetary Order.

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: March 22, 2023

Residential Tenancy Branch