



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, AAT, PSF, OLC

Introduction

The Tenant applied for dispute resolution (“Application”) and seeks the following:

- 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”);
- access to the rental unit pursuant to section 70 of the Act;
- for the Landlord to provide services or facilities required by the tenancy agreement pursuant to section 62(3) of the Act; and
- for the Landlord to comply with the Act, regulation or the tenancy agreement pursuant to section 62 of the Act.

Agents for the Landlord, F.Y.L. and W.Y., attended the hearing for the Landlord. They affirmed to tell the truth during the hearing and were given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Although I waited until 1:20 P.M. to enable the Applicant Tenant to connect with this teleconference hearing scheduled for 1:00 P.M., the Tenant did not attend.

I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. During the hearing, I also confirmed from the online teleconference system that the Landlord and I were the only parties who had called into this teleconference.

Rule 7.1 of the *Rules of Procedure* states that a hearing will commence at the scheduled time, unless otherwise set by the Arbitrator.

Rule 7.3 of the *Rules of Procedure* states that if a party or their agent fails to attend the hearing, the arbitrator may conduct the hearing in the absence of that party or dismiss the application with or without leave to reapply.

W.Y. testified that the Landlord was not served with the Notice of Dispute Resolution Package (the “Materials”) by the Tenant. The Landlord was notified of the hearing verbally by the Tenant and by email correspondence from the Residential Tenancy Branch.

Rule 3.1 of the *Rules of Procedure* states that an applicant must serve the respondent with the Materials within three days of the documents being made available by the Residential Tenancy Branch. Based on the testimony from W.Y., I find that the Tenant did not serve the Landlord with the Materials.

Accordingly, in the absence of any attendance at this hearing by the Tenant or their Agent, and as the Tenant did not serve the Landlord with the Materials in accordance with the *Rules of Procedure*, I dismiss the Tenant’s Application without leave to reapply.

Analysis

Section 55(1) of the Act states that if a tenant applies for Dispute Resolution to dispute a landlord’s notice to end tenancy, an Order of Possession must be granted if the tenant’s application is dismissed, and the landlord’s notice complies with the form and content requirements set out in section 52 of the Act.

A copy of the Notice was entered into evidence by the Tenant. I find that the Notice complies with section 52 of the Act, though the effective date is amended from August 16, 2022 to February 17, 2023 in accordance with section 53 of the Act. Though only the first page of the Notice was entered into evidence by the Tenant, W.Y. testified that all three pages of the Notice were served to the Tenant.

Based on the above findings, the Landlord is entitled to an Order of Possession under section 55(1) of the Act. However, W.Y. testified that a hearing took place on March 30, 2023 following the Landlord’s application for an Early End to Tenancy and that an Order of Possession had already been issued to the Landlord following this hearing. The application number for the Landlord’s application is on the front page of this Decision. W.Y. confirmed that there was therefore no requirement for a further Order of Possession to be issued.

Since the 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 \$7,038.00 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. It is the Landlord's obligation to serve the Monetary Order 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	\$7,038.00
Less: security deposit and pet damage deposit	(\$2,300.00)
Total	\$4,738.00

Conclusion

The Application is dismissed without leave to reapply.

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: April 11, 2023

Residential Tenancy Branch