



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding REVELSTOKE PROPERTY SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR-MT, RP, OPR, MNR, FF

Introduction

This hearing was convened in response to applications by the landlord and the tenants.

The landlord's application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenants' application is seeking orders as follows:

1. To be allowed more time to dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on March 2, 2023; and
2. To have the landlord make repairs to the rental unit.

The tenants attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenants testified the Application for Dispute Resolution and Notice of Hearing were served in person on the landlord, on Friday, April 14, 2023. I find the landlord was duly served.

The tenants confirmed they received the landlord's application on April 12, 2023.

The hearing proceeding in the absence of the landlord.

Issue(s) to be Decided

Should the tenants be allowed more time to dispute the Notice?

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The tenancy began on May 7, 2021. Rent in the amount of \$1,400.00 was payable on the first of each month. A security deposit of \$675.00 was paid by the tenants.

The tenants confirmed that they received Notice on March 3, 2023. Filed in evidence is a copy of the Notice, which complies with section 52 of the Act. The Notice indicates that the tenants failed to pay rent in the amount of \$1,100.00 due on March 1, 2023.

The tenants stated that they did not dispute the Notice until March 31, 2023, because they were trying to get the rent money. The tenants did not provide any evidence of any exceptional circumstance that prevented them from filing their application within 5 days as required by the Act.

The tenants testified that they attempted to pay the outstanding rent on March 13, 2023; however, the landlord did not accept it. The tenants confirm rent for March, April and May 2023 was not given to the landlord.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, I find the tenants' application to be allow more time to dispute the Notice must be dismissed. As the tenants were required to dispute the Notice no later than March 8, 2023. The tenants' application was filed on March 31, 2023, the effective date of the Notice. The tenants have not provided any evidence that an exceptional circumstance occurred that prevented them from filing their application on time, such as being hospitalized, as required by section 66 of the Act.

As I have dismissed the tenants' application to dispute the Notice, I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Further, the tenants admit rent was not paid or even an attempt to be paid within 5 days of receiving the Notice. Rent was to be paid no later than March 8, 2023. While the tenants indicated they attempted to pay the rent on March 13, 2023; however, that was inconsistent with their testimony as they indicated they filed their application late because they were trying to get their rent money.

Furthermore, the tenants admit the landlord has not received rent for March (\$1,100.00), April and May 2023 (\$1,400x2=\$2800.00). I find that the landlord is entitled to a monetary order, pursuant to section 55(1.1) and 67 of the Act for unpaid rent in the amount of \$3,900.00. This order may be filed in the Provincial Court and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

I have not granted the landlord the cost of their filing fee as the landlord did not attend the hearing. The landlord was only granted the above orders based on the testimony of the tenants under the tenants' application which the Act requires me to grant the orders under section 55 of the Act.

Conclusion

The tenants' application is dismissed. Based on the testimony of the tenants the landlord is granted an order of possession and a monetary order for unpaid rent.

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: May 08, 2023

Residential Tenancy Branch