



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, RP, OLC; CNC

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear two applications regarding a tenancy.

On December 3, 2022 the tenants applied for:

- an order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent, dated December 2, 2022 (the 10 Day Notice);
- an order for repairs made to the unit; and
- an order for the landlord to comply with the Act, Regulations, or tenancy agreement.

On December 14, 2022 the tenants applied for:

- an order to cancel a One Month Notice to End Tenancy for Cause.

The hearing was attended by the landlord but not the tenants. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; he was made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

Preliminary Matter

The landlord testified that as the tenants texted the landlord on April 6, 2023 to say they had vacated the rental unit, the landlord is seeking only unpaid rent and utilities, not an order of possession.

Based on the landlord's affirmed testimony that the tenants have vacated the rental unit, I dismiss the tenants' applications. The remainder of the decision will consider whether the landlord is entitled to a monetary order for unpaid rent and utilities.

Issue to be Decided

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

Background and Evidence

The landlord confirmed the following particulars regarding the tenancy. It began October 1, 2022; the tenants vacated the unit on April 6, 2023; rent was \$1,500.00, due on the first of the month; and the tenants did not pay the security and pet damage deposits.

A copy of the tenancy agreement was submitted as evidence and indicates rent was \$1,500.00 and the tenants are to pay 40 percent utilities.

The landlord testified they served the 10 Day Notice on the tenants in person on December 2, 2022.

A copy of the 10 Day Notice is submitted as evidence. It is signed and dated by the landlord, gives the address of the rental unit, states an effective date, states the grounds for ending the tenancy, and is in the approved form. The Notice states the tenancy is ending as the tenants have failed to pay rent in the amount of \$1,500.00, due on December 1, 2022, and utilities in the amount of \$128.90, following written demand on December 2, 2022.

The landlord testified they did not serve the tenants a 30-day demand letter for the outstanding utilities.

The landlord is seeking outstanding rent as follows:

Month	Rent owing	Rent paid	Monthly outstanding
December 2022	\$1,500.00	\$0.00	\$1,500.00
January 2023	\$1,500.00	\$0.00	\$1,500.00
February 2023	\$1,500.00	\$0.00	\$1,500.00
March 2023	\$1,500.00	\$0.00	\$1,500.00
April 2023	\$1,500.00	\$0.00	\$1,500.00
Total			\$7,500.00

Analysis

Pursuant to section 46 (1) of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

I accept the landlord's undisputed affirmed testimony that the tenants did not pay rent for December 2022 to April 2023.

Section 46(6) states that if a tenancy agreement requires the tenant to pay utility charges to the landlord, and the utility charges are unpaid more than 30 days after the tenant is given a written demand for payment of them, the landlord may treat unpaid utility charges as unpaid rent and may give notice under section 46.

As the landlord testified he did not serve the tenants with a 30 day demand letter for the utilities owing, I decline to consider them.

Based on the testimony of the landlord, I find he served the 10 Day Notice on the tenants in accordance with section 88 of the Act. As the tenant's application indicates the Notice was received on December 2, 2022, I find the tenant received it on that date.

I find the 10 Day Notice meets the form and content requirements of section 52.

Based on the landlord's testimony, I find the tenancy ended on April 6, 2023, the date the tenant vacated the rental unit.

Residential Tenancy Policy Guideline 3. Claims for Rent and Damages for Loss of Rent states:

If the tenant has vacated or abandoned the rental unit prior to the date of the dispute resolution hearing, the date the tenancy ended is the date that the tenant vacated or abandoned the rental unit. Only rent owing up until this date would constitute unpaid rent for the purpose of section 55(1.1) of the RTA.

Therefore, I find the landlord is entitled to recover unpaid rent in the amount of \$6,000.00 for December 2022 to March 2023 (1,500 x 4) and \$300.00 for April 1 – 6, 2023 (1,500/30 x 6), for a total of \$6,300.00.

Pursuant to section 55(1.1) of the Act, I find the landlord is entitled to a monetary award for unpaid rent in the amount of \$6,300.00.

Conclusion

The tenant's applications are dismissed.

The landlord is granted a monetary order in the amount of \$6,300.00. The monetary order must be served on the tenants. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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 01, 2023

Residential Tenancy Branch