



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **OPR, MNRL-S, MNDCL-S, FFL**

Introduction

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act (“Act”) for orders as follows:

- for an order of possession pursuant to section 55 of the Act
- For a monetary order for unpaid rent pursuant to section 67 of the Act
- For a monetary order for damages pursuant to section 67 of the Act*
- For reimbursement of the filing fee pursuant to section 72 of the Act

Landlord’s agents MM and PG appeared along with landlord SM. The tenant did not appear. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The hearing was conducted by conference call. The parties were reminded to not record the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

Two 10 Day Notices were served. The landlord testified that they are not relying on the notice dated January 14, 2023. The landlord testified that they served a second 10 Day Notice dated January 27, 2023 by registered mail. The landlord provided Canada Post tracking information in evidence. Pursuant to sections 88 and 90 of the Act the tenant is deemed to have been served with this notice on February 2, 2023.

The landlord testified that the tenant was served with the dispute notice and evidence package by registered mail on April 14, 2023. The landlord provided Canada Post tracking information in evidence and the landlord’s agent testified that they received proof that the package was claimed by the tenant. Pursuant to sections 88, 89, and 90 of the Act the tenant is deemed to have been served on April 19, 2023.

Issue(s) to be Decided

1. Is the 10 Day Notice valid and enforceable against the tenant? Is the landlord entitled to an order of possession?
2. Is the landlord entitled to a monetary order for compensation for unpaid rent?
3. Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

The tenancy commenced on January 20, 2019. Rent was \$2,100.00 due on the 20th of the month. The landlord holds a security deposit of \$500.00 in trust for the tenant. The tenant still occupies the rental unit.

The landlord testified that the tenant has not paid any rent since November 20, 2022. The rent currently owing to the landlord up until April 20, 2023 is \$12,600.00. The landlord provided a ledger of unpaid rent in evidence.

Analysis

RTB Rules of Procedure 6.6 states, "The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. In this case, the landlord has the burden of proving the validity of the 10 Day Notice served on the tenant.

I find that the landlord has satisfied me that the tenant has not paid rent since November 20, 2022. The 10 Day Notice meets the form and content requirements of section 52 of the Act. Section 55 of the Act requires me to issue an order of possession in favour of the landlord if the 10 Day Notice meets the form and content requirements of section 52 of the Act and if I uphold the landlord's notice. As section 55(1) of the Act is satisfied, I find that the landlord is entitled to an order of possession effective two days from the date it is served on the tenant.

As the notice is valid section 55(1.1) also requires me to issue a monetary order for unpaid rent if the notice meets the requirements of section 52 and if I uphold the 10 Day

Notice. I have found that the requirements for issuing a monetary order are met. I find that the tenant owes \$12,600.00 in unpaid rent. Therefore, the landlord is entitled based on sections 55(1.1) and 67 of the Act to compensation. The landlord is allowed to retain the tenant's security deposit in partial satisfaction of the amount.

As the landlord is successful in their application, the landlord is also entitled to recover the filing fee of \$100.00 for the application,

Conclusion

The landlord is granted an order of possession which will be effective two days after it is served on the tenant. The order of possession must be served on the tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The landlord is granted a monetary order as follows:

Claim	Amount
Unpaid rent	\$12,600.00
Filing Fee	\$100.00
Security Deposit	(\$500.00)
Total	\$12,200.00

The monetary order must be served on the tenant. 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 19, 2023

Residential Tenancy Branch