



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, PSF

Introduction

The Tenants applied for dispute resolution (“Application”) and seek an order canceling 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”). They are also requesting the Landlord to provide services or facilities under section 62(3) of the Act.

The Respondent Landlords called into this teleconference at the date and time set for the hearing of this matter. The Landlords affirmed to tell the truth during the hearing and was given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Although I waited until 1:55 P.M. to enable the Applicant Tenants to connect with this teleconference hearing scheduled for 1:30 P.M., the Tenants 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 Landlords 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.

Accordingly, in the absence of any attendance at this hearing by the Tenants or their Agent, I dismiss the Tenants' Application without leave to reapply.

Additionally, The Landlords testified that they were not served with the Notice of Dispute Resolution Package (the "Materials") by the Tenants and had to contact the Residential Tenancy Branch to obtain the access code for the hearing.

Rule 3.1 of the *Rules of Procedure* states that an applicant must serve the respondent with the Materials within three days of them being made available by the Residential Tenancy Branch. Based on the foregoing, I find that the Tenants did not serve the Materials onto the Landlords and find this a further reason to dismiss the Application.

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.

I find that the Notice complies with section 52 of the Act, though the effective date is amended from March 29, 2023 to April 1, 2023 in accordance with section 53 of the Act.

Based on the above findings, the Landlords are entitled to an Order of Possession under section 55(1) of the Act. However, during the hearing the Landlords confirmed the Tenants vacated the rental unit on April 26, 2023 and as such, they waived their rights to an Order of Possession. Accordingly, an Order of Possession shall not be issued. I find the tenancy ended on April 1, 2023 in accordance with the Notice.

Since the Application relates to a section 46 Notice to End Tenancy, the Landlords are entitled to an order for unpaid rent under section 55(1.1) of the Act. During the hearing, the Landlords provided undisputed testimony that as of April 1, 2023, the Tenants owed \$9,700.00 in unpaid rent. Therefore, the Tenants are ordered to pay \$9,700.00 in unpaid rent to the Landlords.

Under section 38(4)(b) of the Act, the Landlords are 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 Tenants. It is the

Landlords' obligation to serve the Monetary Order on the Tenants. The Monetary Order is enforceable in the Provincial Court of British Columbia (Small Claims Court).

The Order is summarized below.

Item	Amount
Unpaid rent	\$9,700.00
Less: security deposit	(\$1,200.00)
Total	\$8,500.00

Conclusion

The Application is dismissed without leave to reapply.

The Landlords are 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: May 02, 2023

Residential Tenancy Branch