



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding CASTLE VIEW HOMES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

For the Landlord: OPR-DR OPL-4M MNR-DR FF
For the Tenant: CNR OLC RP LRE RR FF

Introduction

This dispute relates to three Applications for Dispute Resolution (applications) comprised of 2 applications by the landlord and 1 application by the tenant seeking remedy under the *Residential Tenancy Act* (Act) for the following:

- Order of possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 3, 2023 (10 Day Notice),
- Order of possession based on a 4 Month Notice,
- Monetary order for all unpaid rent and filing fee,
- Cancel the 10 Day Notice,
- Order landlord to comply with Act, Regulation or tenancy agreement,
- Regular repairs,
- Suspend or set conditions on the landlord's right to enter the rental unit,
- Rent reduction and filing fee.

A landlord agent, BA (Agent) attended the teleconference hearing and was affirmed. The line remained open while the phone system was monitored, and the hearing lasted for 27 minutes. The only participant who called into the hearing during this time was the Agent who was ready to proceed and who confirmed that the tenant vacated the rental unit on May 18, 2023. After the 10-minute waiting period, the tenant's application was **dismissed in full, without leave to reapply.**

The hearing continued with consideration of the landlord's application. As the tenant did not attend the hearing, service of both of the Notices of a Dispute Resolution Hearing (Notices of Hearing), applications and documentary evidence (Hearing Packages) were

considered. The Agent confirmed service of the Hearing Packages both by email and provided a Residential Tenancy Branch (RTB) Form-51 in support, which confirms that the tenant agreed to service by email at the start of the tenancy. The email address for the tenant is included on the cover page of this decision and service to the tenant may continue via email under the Act.

Based on the undisputed testimony of the Agent and with the emails submitted in evidence proving service of both applications and without any evidence to the contrary I am satisfied the tenant has been sufficiently served in accordance with the Act.

RTB Rule 7.3 of the Rules of Procedure (Rules) applies and states the following:

Rule 7.3 Consequences of not attending the hearing

The arbitrator may conduct the hearing in the absence of a party or dismiss the application, with or without leave to re-apply.

Based on the above, I find this matter to be unopposed by the tenant and the hearing continued without the tenant present.

Preliminary and Procedural Matters

The Agent confirmed the email addresses for both parties. The decision will be sent via email to both parties. Any resulting orders will be emailed to the landlord only for service on the tenant, as required.

As the Agent confirmed that the landlord has already obtained possession back of the rental unit, an order of possession will not be considered further in this decision.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act and if so, in what amount?
- What should happen to the tenant's security deposit under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence and began on August 1, 2022. Monthly rent of \$1,700 was due on the first day of each month. The tenant paid a security deposit of \$850 at the start of the tenancy which the landlord continues to hold. The landlord confirmed that they are not seeking the security deposit due to the tenant failing to provide a written forwarding address since vacating the rental unit.

The landlord is seeking unpaid rent of \$1,700 for the months of January, February, March, April and May of 2023 for a total of \$8,500 plus the two filing fees.

The 10 Day Notice was dated February 3, 2023, and served via email. The effective vacancy date is listed as February 14, 2023.

The 4 Month Notice is dated November 18, 2022, and was served via email. The effective vacancy date is listed as March 31, 2023.

I will address both the 10 Day Notice and the 4 Month Notice below.

Analysis

Based on the landlord's undisputed documentary evidence and the Agent's undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

Firstly, I find the tenancy ended by way of the 10 Day Notice and that the 4 Month Notice for the following reasons. The 10 Day Notice was served via email on February 3, 2023, which I find makes it deemed served 3 days later under the Regulation, which is February 6, 2023. Therefore, I find the corrected effective vacancy date under section 53 of the Act is February 16, 2023. I find the tenancy ended February 16, 2023, accordingly. The 4 Month Notice effective date was not until March 31, 2023. Therefore, I find the 4 Month Notice is moot and required no compensation by the landlord.

As the tenant did not attend the hearing and the tenant's application has been dismissed, I find that the landlord's monetary claim is unopposed by the tenant. As the tenant did not vacate the rental unit until May 18, 2023, I find that the tenant owes all rent for January to May 2023, inclusive which is **\$8,500**. Given the above, I find the landlord was required to make both applications and I award the landlord **\$200** for both filing fees under section 72 of the Act. This brings the total award to **\$8,700**.

As the tenant has failed to provide a written forwarding address to the landlord, and as per the Agent's request, I do not offset any security deposit or interest from the \$8,700 amount owing. I grant the landlord a monetary order pursuant to section 67 of the Act in that amount.

Conclusion

The tenant's application has been dismissed in full, without leave to reapply.

The landlord's applications have merit. The tenancy ended February 16, 2023.

The landlord is granted a monetary order of **\$8,700**. Should the landlord require enforcement of the monetary order, the monetary order must be served on the tenant with a demand for payment letter and may be filed in the Provincial Court of British Columbia (Small Claims) to be enforced as an order of that court.

I caution the tenant that they can be held liable for all costs related to enforcement of the monetary order.

Service by email on the tenant may continue as per the Form 51 from the landlord.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: June 8, 2023

Residential Tenancy Branch