



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **OPL, OPR-DR, MNR-DR, FFL, CNR, CNL, MNDCT, AAT, PSF, LRE, LAT, OLC, FFT**

Introduction

This hearing was convened by way of conference call in response to cross Applications for Dispute Resolution filed by the parties pursuant to the Residential Tenancy Act (the "Act") for Orders as follows:

The applicant applied as follows:

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

The respondent applied as follows:

- For cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") pursuant to section 46 of the Act
- For cancellation of the Two Month Notice to End Tenancy ("Two Month Notice") pursuant to section 49 of the Act
- For a monetary order for damage or compensation pursuant to section 67 of the Act
- For an order to provide services or facilities required by the tenancy agreement or law pursuant to section 62 of the Act
- For an order suspending or setting conditions on the landlord's right to enter to the rental property pursuant to section 70 of the Act
- For an order authorizing the applicant to change the locks on the rental unit pursuant to section 31

- For an order requiring the landlord to comply with the Act, regulations or tenancy agreement pursuant to section 62 of the Act
- For an order to allow access for the applicant or their guests pursuant to section 30 of the Act
- For reimbursement of the filing fee pursuant to section 72 of the Act

Both parties attended the hearing with the applicant being represented by agent TG, while the respondent, KL, appeared for herself. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The parties confirmed they were not recording the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The applicant acknowledged receiving the respondent's dispute notice and materials. Service to the applicant is in accordance with sections 88 and 89 of the Act.

The respondent denied service of all of the applicant's documents. The evidence of service from the applicant is:

- The Two Month Notice was delivered into the mailbox at the rental unit on December 23, 2022. The applicant provided proof of service RTB Form 32 in evidence showing that the Two Month Notice was served and service was witnessed by another individual.
- The 10 Day Notice was delivered into the mailbox of the rental unit on March 2, 2023. The applicant provided proof of service RTB Form 32 in evidence showing that service of the 10 Day Notice was witnessed by another individual.
- The applicant admitted that there is no evidence that the respondent was served with the dispute notice and materials in relation to the applicant's request for an order of possession for the rental unit based on the Two Month Notice.
- The applicant's dispute notice and materials in relation to the applicant's request for an order of possession and monetary order based on the 10 Day Notice was served by registered mail on May 1, 2023. The applicant provided a Canada Post tracking number and RTB Proof of Service Form 55 in evidence.

I find that the respondent was properly served with all documents except for the applicant's dispute notice and materials in relation to the Two Month Notice. Service for all other documents is in accordance with sections 88, and 89 of the Act.

RTB Rules of Procedure Rule 3.5 requires that the party making an application for dispute resolution serve the dispute notice and evidence in support of the application on the opposing party. Based on RTB Rules of Procedure 3.5 the applicant's application for an order of possession based on the Two Month Notice is dismissed with leave to reapply. This decision does not extend any time limits set out in the Act.

Preliminary Issue – Severance

The respondent applied for several other orders in addition to cancellation of the 10 Day and Two Month Notices. These issues are not related to the dispute of the Notices and are therefore severed pursuant to Rule 2.3 of the RTB Rules of Procedure. The respondent has leave to reapply on these issues. This decision does not extend any time limits set out in the Act.

Issue(s) to be Decided

1. Is the 10 Day Notice valid and enforceable against the respondent? Is the applicant entitled to an order of possession?
2. Is the Two Month Notice valid and enforceable against the respondent? Is the applicant entitled to an order of possession?
3. Is the applicant entitled to a monetary order for compensation for unpaid rent?
4. Is either party entitled to a reimbursement for their respective filing fees?

Background and Evidence

The tenancy agreement is in evidence. The tenancy commenced on March 5, 2016 and is currently month to month. Rent is \$1421.00 per month due on the first of the month. The applicant holds a security deposit of \$700.00 in trust.

The respondent denied being a tenant. She stated that she was a guest. She is not listed on the tenancy agreement. She stated another person is listed as a tenant on the tenancy agreement.

The applicant stated that the respondent is a tenant. The individual listed on the tenancy agreement refused to provide valid ID to the applicant. The respondent did provide valid ID to the applicant and on that basis, she was served with the Two Month Notice and the 10 Day Notice.

Analysis

I have reviewed the tenancy agreement in evidence. I note that no one is listed as a tenant on the tenancy agreement. The individual referred to by the parties during the proceedings as the tenant is listed as a landlord on the tenancy agreement.

Based on the evidence before me, I find that I cannot determine who the tenant or tenants are of the rental unit in this matter. The respondent denied being a tenant. She is not listed as a tenant on the tenancy agreement. No one is listed as a tenant on the tenancy agreement. Without evidence to establish who the tenant or tenants of the rental unit are, I cannot find that either the 10 Day Notice or the Two Month Notice are valid and enforceable, nor do I have evidence to establish that the applicant is entitled to an order of possession or a monetary order in respect of the respondent in this matter.

The respondent's application is granted. The 10 Day Notice is cancelled. The Two Month Notice is cancelled. The applicant's application for an order of possession and a monetary order based on the 10 Day Notice is dismissed.

The respondent has applied to recover her filing fee of \$100.00 for this matter. As she was successful in her application, she is entitled to recover the filing fee,

Conclusion

The respondent is granted a monetary order in the amount of \$100.00 in recovery of the filing fee. The monetary order must be served on the applicant. 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: June 12, 2023

Residential Tenancy Branch