



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR-MT OLC PSF LRE AS FFT

Introduction

This dispute relates to a tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

- Cancel a 10 Day Notice for Unpaid Rent or Utilities dated February 9, 2023 (10 Day Notice),
- More time to cancel a 10 Day Notice,
- Order directing the landlord to comply with the Act, Regulation or tenancy agreement,
- Order directing the landlord to provide services or facilities,
- Order to suspend or set conditions on the landlord's right to enter the rental unit,
- Permission to assign or sublet the rental unit,
- Filing fee of \$100.

The tenant was provided with a copy of the Notice of Dispute Resolution Proceeding dated February 27, 2023 (Notice of Hearing) when they made their application. The tenant, however, did not attend the hearing set for this date, June 12, 2023 at 11:00 a.m. Pacific Standard Time. The phone line remained open for 25 minutes and was monitored throughout this time. The only persons to call into the hearing was the landlord and their agent.

Preliminary and Procedural Matter

The landlord confirmed their email address and was advised that the decision and any applicable orders would be emailed to them. The decision will also be emailed to the tenant.

Analysis

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3 apply and state:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Given the above and following the 10-minute waiting period, the application of the tenant was **dismissed without leave to reapply**. This decision does not extend any applicable time limits under the Act. The respondent attended the hearing, yet the applicant tenant did not attend the hearing to present the merits of their application.

I decline to grant the filing fee as the tenant failed to attend the hearing to present the merits of their application.

The landlord testified that they are owed \$5,400 in unpaid rent. The landlord testified that the monthly rent was \$750 per month and provided evidence in support that the tenant used to pay \$750 per month and then in March 2022, without permission, began to pay only \$550 in rent and failed to make up the difference in rent owed.

Section 55(1.1) of the Act applies and states:

55(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [*landlord's notice: non-payment of rent*], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, **the director must grant an order requiring the payment of the unpaid rent.**

[emphasis added]

Pursuant to section 55(1.1) of the Act, I grant the landlord **\$5,400** for unpaid rent arrears from March 2022 to June 2023, inclusive. The landlord stated that the tenant paid no rent for February to June 2023, inclusive, which is included in the \$5,400 owed.

The landlord is also granted an order of possession pursuant to section 55 of the Act given the 10 Day Notice before me, which I consider not to be disputed as the tenant failed to attend the hearing. The 10 Day Notice was dated February 9, 2023 and includes an effective vacancy date of March 31, 2023, which is much longer than the required 10 days to vacate under the Act.

I apply my discretion to amend the 10 Day Notice pursuant to section 68(1) of the Act as I find the tenant would know or ought to have known the rental unit address contained an error at the bottom portion of the 10 Day Notice. I find it is reasonable to amend as the rental unit address is correct at the top portion of the 10 Day Notice.

Conclusion

The application is dismissed in full without leave to reapply. The landlord is granted an order of possession effective two (2) days after service on the tenant. The landlord must serve the tenant with the order of possession. If the tenant fails to vacate the rental unit, they can be held liable for all costs related to the enforcement in the Supreme Court of British Columbia including court costs and bailiff fees.

The landlord is granted a monetary order of \$5,400 for unpaid rent. Should the landlord require enforcement of the monetary order, the order must be first served on the tenant with a demand for payment letter and may be filed in the Provincial Court (Small Claims) and 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, including court fees. The orders will be emailed to the landlord for service on tenant. This decision will be emailed to both parties.

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 12, 2023

Residential Tenancy Branch