



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, DRI

Introduction

This dispute relates to the Tenant's April 26, 2023 Application for Dispute Resolution seeking remedy under the *Residential Tenancy Act* (Act) for the following:

- to cancel a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice),
- to dispute a rent increase that is above the amount allowed by law.

The Notice was issued on April 23, 2023 and the Tenant disputed the matter on April 26, 2023. The Landlord affirmed the Tenant was served all evidence in person on June 3, 2023. An Affidavit of Service was provided as evidence.

As the Tenant failed to attend the hearing, I dismiss their application without leave to reapply as per Rule of Procedure 7.3. Although the Tenant's application is dismissed, under section 55(1.1) I will consider the validity of the notice and whether the tenant owes unpaid rent.

Issue(s) to be Decided

- Does the 10-day Notice end the tenancy?
- Does the Tenant owe unpaid rent?

Background and Evidence

The month-to-month tenancy started on November 1, 2022, with an agreement of \$3,200 monthly rent to be paid on the first day of each month. The tenancy agreement indicates monthly rent of \$3000, which was crossed out and changed to \$3,200, with the change only being initialed by the Landlord. The Landlord claims the verbal agreement consisted of monthly rent of \$3200, however, they erred by noting \$3,000 on the agreement.

The Tenant provided four posted-dated cheques on November 1, 2022, to cover monthly rent from November to March 2023. The Landlord also advises of the Tenant's verbal commitment to increase the payments by \$50, thereby, promising to pay full rent of \$3,200 from November 2022 to July 2023. The Tenant agreed to pay an additional \$50 per month, as they only paid \$6050 for November and December 2022, whereas total rent owed was \$6400.

The Landlord provided evidence of post-dated cheques and returned item advice notices from CIBC as follows:

- \$6,050 for the months of November and December 2022,
- \$3,250 for January 2023,
- \$3,250 for February 2023,
- \$3,250 for March 2023.

The Landlord was out of the country from December 2022 to March 2023 and continued to communicate with the Tenant to recover outstanding rent. The Landlord confirms receiving an e-transfer of \$1000 from the Tenant on February 14, 2023.

On April 16, 2023, the Tenant provided a cheque for \$20,000, indicating payment of rent from November 2022 to April 30, 2023. The Landlord provided the returned item advice from CIBC indicating funds are frozen and were not cleared.

On April 23, 2023, the Landlord served the Notice with the move out date of May 6, 2023. The Landlord reports unpaid rent in the total amount of \$24,600, from November 2022 to June 2023. The Landlord also indicates loss incurred due to monthly strata fees that were not paid by the Tenant. The Tenant continues to occupy the rental unit and has changed the locks.

Analysis

- Does the 10-day Notice end the tenancy?

The Tenant failed to pay rent and did not attend the hearing to demonstrate a lawful reason to withhold rent. I find the Landlord had reason to give the Notice and it has been properly completed as per Section 52 of the Act.

I find the Notice has ended the tenancy effective May 6, 2023. The Landlord is entitled to an order of possession.

- Does the Tenant owe unpaid rent?

I accept the undisputed testimony and records of the Landlord and find the Tenant owes unpaid rent. I accept the verbal agreement of \$3,200 monthly rent as the Tenant provided post-dated cheques to reflect his understanding and commitment to the agreement. I award the landlord \$24,600. The monetary award is for unpaid rent only, as strata fees do not meet the definition of unpaid rent.

Conclusion

The Tenant's application is dismissed without leave to reapply.

The Landlord is granted an order of possession effective two days after service. The Landlord should serve the order to the Tenant immediately. Should the Tenant fail to comply, the order may be enforced in the BC Supreme Court.

The Landlord is granted a monetary award of \$24,600. The Landlord should serve the order to the Tenant immediately. Should the Tenant fail to pay, the order may be enforced in the Small Claims division of Provincial Court.

I warn the tenant that under section 31(3) of the Act, the tenant must not change the lock of the rental unit.

At the end of the tenancy the Tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear. Tenants and landlords both have an obligation to complete a move-out condition inspection at the end of the tenancy. To learn about obligations related to deposits, damage and compensation, search the [RTB website](#) for information about after a tenancy ends.

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 14, 2023

Residential Tenancy Branch