



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, CNC (Tenant's application)
 OPR, MNRL (Landlord's cross-application)

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) under sections 46 and 55 of the Act issued June 5, 2023; and, cancellation of the Landlord's One Month Notice to End Tenancy.

This hearing also concerned the Landlord's cross-application for Dispute Resolution regarding the 10-Day Notice to End Tenancy for Unpaid Rent and Utilities issued June 5, 2023 and requests for an order of possession of the rental unit and a monetary order for unpaid rent.

Issues to be Decided

Is the Landlord entitled to an Order of Possession based on the 10 Day Notice?

Is the Landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

While the Landlord attended the hearing by way of conference call, the Tenant did not. The Landlord who attended the hearing was given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Commencement of the hearing: The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may

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

Evidence was provided showing that this tenancy began on September 15, 2022 for a fixed term to February 15, 2023 and thereafter on a month-to-month basis. The monthly rent of \$2,500.00 is due on the fifteenth (15th) of each month. The Landlord collected a security deposit at the start of the tenancy in the amount of \$1,250.00, which he continues to hold in trust.

The Landlord testified that the Tenant had unpaid rent for May 2023 in the amount of \$500.00 and had failed to pay any rent for June, July and August 2023 for a total of \$8,000.00 in unpaid rent. Additionally, the Landlord submitted evidence establishing that the Tenant had been late in paying rent in October, November and December 2022 as well as January and April 2023. The Landlord also testified that the Tenant remained in possession of the rental unit.

The Landlord issued a 10 Day Notice on June 5, 2023 with an effective date of June 15, 2023 for unpaid rent in the amount of \$2,500.00 then due as of May 15, 2023. The Notice was served on the Tenant by registered mail on June 5, 2023 and was delivered to the Tenant on June 7, 2023.

The Tenant applied for dispute resolution on June 13, 2023 but did not serve the Landlord with the dispute resolution package or copies of evidence she submitted, which consisted of the 10 Day Notice and a One Month Notice to End Tenancy for Cause issued June 5, 2023 with an effective date of July 14, 2023.

The Landlord made an application for dispute resolution for an order of possession and monetary award for unpaid rent based upon the 10 Day Notice issued June 5, 2023. The Landlord served the Tenant with the dispute resolution package and copies of the evidence he submitted by process server who posted the package to the door of the rental unit on July 31, 2023. Proof of service from the process server was submitted into evidence.

Analysis

Section 46 of the Act states that upon receipt of a 10 Day Notice, the tenant must, within five days, either pay the full amount of the arrears as indicated on the 10 Day Notice or dispute the 10 Day Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant(s) do not pay the arrears or dispute the 10 Day Notice they are conclusively presumed to have accepted the end of the tenancy under section 46(5).

I find that the 10 Day Notice was duly served to the Tenant on June 7, 2023, and that the Tenant had until June 12, 2023, to dispute the 10 Day Notice or to pay the full amount of the arrears.

The Tenant provided no evidence in support of her application to cancel the 10 Day Notice issued June 7, 2023.

For this reason, the Tenant's application for cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) under sections 46 and 55 of the Act issued June 7, 2023 is dismissed, without leave to reapply. Additionally, and for this reason also, the Tenant's application to cancel a One Month Notice to End Tenancy for Cause for repeated late rent is dismissed, without leave to reapply.

Section 55(1.1) of the Act provides that if a tenant makes an application for dispute resolution of a notice to end tenancy for unpaid rent under section 46, and the landlord's notice complies with section 52 of the Act, and the tenant's application is dismissed or the landlord's notice is upheld, then the director must grant an order for unpaid rent.

I find that the Landlord's 10 Day Notice to End Tenancy issued June 5, 2023 complies with section 52 of the Act, and that based upon the testimony of the Landlord and evidence submitted, that there is unpaid rent from the Tenants in the amount of \$8,000.00.

Conclusion

The Tenant's application is dismissed in its entirety, without leave to reapply.

I grant the Landlord a Monetary Order in the amount of **\$6,734.64** under the following terms:

Monetary Issue	Granted Amount
A Monetary Order for unpaid rent under section 46	\$8,000.00
Less the amount of the Tenant's security deposit	(\$1,250.00)
Less amount of interest on security deposit	(\$15.36)
Total Amount	\$6,734.64

The Landlord is provided with this Order on the above terms and the Tenant must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I grant an Order of Possession to the Landlord effective **two (2) days after service of this Order** on the Tenant. Should the Tenant or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: August 23, 2023

Residential Tenancy Branch