



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNC, CNR, MNDCT, PSF, LRE, OLC, FFT

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), this hearing dealt with the Tenant's applications to cancel a One Month Notice to End Tenancy for Cause, issued June 20, 2023; and, a 10-Day Notice to End Tenancy for Unpaid Rent issued August 2, 2023.

The Tenant also applied for monetary compensation, a request that the Landlord provide services or facilities required by the tenancy agreement or law, and to restrict the Landlord's right of entry into the rental unit.

On each application, the Tenant also requested reimbursement of the filing fee from the Landlord.

Issues to be Decided

- Is the Tenant entitled to cancellation of the One Month Notice?
- Is the Tenant entitled to cancellation of the 10 Day Notice?
- If the Tenant is not entitled to cancellation of either Notice, is the Landlord entitled to an Order of Possession?
- Is the Tenant entitled to an order for monetary compensation, an order that the Landlord provide services under the tenancy agreement or law, or an order restricting the Landlord's right of access to the rental unit?
- Is the Tenant entitled to recover the filing fees from the Landlord?

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 April 1, 2023 for a fixed term to October 1, 2023 and thereafter to continue on a month-to-month basis. The monthly rent was \$1,400.00 due on the first day of the month. A security deposit in the amount of \$700.00 was collected by the Landlord at the commencement of the tenancy and is held in trust by the Landlord. The tenancy agreement did not provide for the Tenant to have pets and no pet damage deposit was collected at the start of the tenancy.

The Landlord testified that on May 2, 2023 she was notified by a neighbor that there was a cat in the rental unit. The Landlord went to the rental unit to discuss with the Tenant. The Tenant told the Landlord that the cat belonged to his brother and he was watching it for the weekend. The Landlord returned at the end of the weekend and spoke with the Tenant as the cat was still in the rental unit. The Landlord testified that the Tenant then admitted the cat belonged to him. The Landlord did an inspection of the rental unit and on May 5, 2023 agreed the Tenant could keep the cat in the rental unit provided he pay a \$700.00 pet damage deposit. The rental agreement was amended to provide for the payment of a pet damage deposit in the amount of \$700.00 and the Tenant initialed the change to the agreement agreeing to pay the pet damage deposit.

On May 19, 2023, the Landlord testified she returned to the rental unit to speak with the Tenant regarding his payment of the pet damage deposit. The Landlord stated that the Tenant then advised her that he would “never pay” the pet damage deposit. The Landlord noticed that the cat was still in the rental unit.

The Landlord issued a One Month Notice for Cause for the Tenant’s failure to pay the pet damage deposit within 30 days. The One Month Notice was issued June 20, 2023 with an effective date of July 31, 2023. The Landlord served the Notice personally to the Tenant on June 20, 2023. The Tenant’s application confirms personal service of the One Month Notice. A copy of the One Month Notice was provided in evidence.

The Tenant applied for dispute resolution to cancel the One Month Notice on June 27, 2023. The Tenant requested that the One Month Notice be canceled and requested reimbursement of the filing fee. The Tenant did not serve the dispute resolution package to the Landlord, the Landlord learning of the Tenant's application from the Residential Tenancy Branch (RTB) on or about August 9, 2023.

The Landlord submitted photographs of the rental unit taken July 18 and August 14, 2023, depicting the Tenant's cat sitting on the interior window sill of the rental unit. The Landlord also submitted a photograph showing a large bag of used kitty litter at the property.

On August 2, 2023, the Landlord issued a 10 Day Notice to End Tenancy for unpaid rent in the amount of \$1,400.00 as of August 1, 2023. The effective date of the 10 Day Notice was August 16, 2023. The Landlord served the 10 Day Notice to the Tenant by posting it on the rental unit door on August 2, 2023. A copy of photograph showing the posted Notice was submitted into evidence. A copy of the 10 Day Notice was provided in evidence.

On August 9, 2023, the Tenant filed a dispute resolution application to cancel the 10 Day Notice. The Tenant's application states he received the 10 Day Notice on August 4, 2023. The Tenant also applied for compensation for monetary loss, for the Landlord to provide services or facilities required by the rental agreement or law, to set conditions on the Landlord's right to enter the rental unit, and reimbursement from the Landlord for the filing fee.

The Tenant did not serve the dispute resolution package regarding the 10 Day Notice to the Landlord; the Landlord again learning of the application from the RTB.

Analysis

1. *One Month Notice to End Tenancy for Failure of Tenant to Pay Pet Damage Deposit*

Section 20(c) of the Act provides that a Landlord may not require a pet damage deposit at any time other than (i) at the commencement of the tenancy or (ii) during the tenancy when the tenant acquires a pet and the landlord agrees may keep the pet on the rental property.

In this case the Landlord presented evidence, including a statement from a neighbor, that the Tenant had a cat in the rental unit beginning sometime in May 2023, after the tenancy had commenced. The Landlord testified that the Tenant ultimately admitted to her that the cat was his, and she requested a pet damage deposit. The Landlord

submitted into evidence a copy of the tenancy agreement with the pet deposit of \$700.00 initialed by the Tenant on May 5, 2023.

The Landlord testified that on May 19, 2023, when attempting to collect the pet damage deposit from him, the Tenant told her he would never pay deposit. The Landlord testified during the hearing that, to date, the Tenant had not paid the pet damage deposit.

I find the One Month Notice issued by the Landlord on June 20, 2023 complies with section 52 of the Act. I accept the Landlord's testimony and evidence that the Tenant has a pet in the rental unit and that the Tenant has not paid the \$700.00 pet damage deposit.

Based upon the evidence and testimony of the Landlord, the Tenant not providing any evidence to cancel the One Month Notice, pursuant to section 55(1) of the Act, I find the Landlord is entitled to an order of possession.

2. 10 Day Notice to End Tenancy for Unpaid Rent

The Landlord testified that the Tenant had not paid rent due August 1, 2023 and as a result on August 2, 2023, she issued a 10 Day Notice to End Tenancy for unpaid rent in the amount of \$1,400.00 due as of August 1, 2023. The effective date of the Notice was August 16, 2023. Service of the 10 Day Notice was made to the Tenant by posting on the rental unit door on August 16, 2023. The Landlord submitted a photograph depicting the posting on the door.

The Landlord testified that the Tenant had also not paid rent due September 1, 2023 in the amount of \$1,400.00. The Landlord requested that the Tenant's security deposit plus any accrued interest be applied toward the unpaid rent.

I find the Notice complies with section 52 of the Act. Sections 55 (1) and (1.1) of the Act require that when a tenant submits an application for dispute resolution seeking to cancel a notice to end tenancy issued by a landlord under section 46 of the Act, I must consider if the landlord is entitled to an order of possession and monetary order if the application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the Act.

I have found that the Landlord is entitled to an order of possession based upon the One Month Notice, and is also entitled to an order of possession based upon the 10 Day

Notice. I further find that based upon the evidence and testimony, the Landlord is entitled to a monetary order in the amount of \$2,800.00 for unpaid rent for August and September 2023.

The Tenant's Remaining Claims

As I find the tenancy has ended, and the Tenant has failed to attend the hearing and present any evidence in support of his remaining claims, I dismiss these claims in their entirety without leave to reapply. I make no findings on these claims.

The Tenant was not the successful party in this application and I dismiss without leave to reapply his claims for reimbursement of the filing fee paid for the applications.

Conclusion

The Tenant's applications to cancel both the One Month Notice and the 10 Day Notice, and all remaining claims, are dismissed without leave to reapply.

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.

I grant the Landlord a Monetary Order in the amount of **\$2,087.06** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for unpaid rent under section 46	\$2,800.00
Less the amount of the Tenant's security deposit	(\$700.00)
Less interest accrued on the security deposit	(\$12.94)
Total Amount	\$2,087.06

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.

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: September 20, 2023

Residential Tenancy Branch