



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

Introduction

This hearing dealt with the Tenant's and Landlord's Applications under the *Residential Tenancy Act* (the "Act").

The Tenant applied:

- To cancel the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice);
- For the Landlord to make repairs to the rental unit;
- To set restrict the Landlord's right to enter the rental unit;
- For permission to change the locks to the rental unit;
- For an order for the Landlord to comply with the Act;
- To recover the filing fee for the application from the Landlord.

The Landlord applied:

- For an Order of Possession based on the Landlord's 10 Day Notice
- For a Monetary Order for the Unpaid Rent and Unpaid Utilities

The Tenant's application and evidence were sent by registered mail to an address not listed as the Landlord's address for service. I find the Landlord was not served with the Tenant's application and evidence under section 88 of the Act.

I find the Tenant was deemed served with the Landlord's application on August 27, 2023, three days after it was sent to the Tenant's email for service. I find the Tenant was deemed served with the Landlord's evidence on September 16, 2023, three days after it was sent to the Tenant's email for service.

I find the Landlord's 10 Day Notice meets the requirements for form and content under section 52 of the Act.

Residential Tenancy Branch Rules of Procedure, Rule 2.3, says that I may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply. Aside from the Tenant's application to cancel the 10 Day Notice, and to recover the filing fee from the Landlord, and the Landlord's applications for an Order of Possession and a Monetary Order for Unpaid Rent, I am exercising my discretion to dismiss the issues identified in the Tenant's application as these matters are not related.

Issue to be Decided

Should the Landlord's 10 Day Notice be cancelled?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to a Monetary Order for Unpaid Rent and Unpaid Utilities?

Is the Tenant entitled to recover the filing fee from the Landlord?

Facts and Analysis

This tenancy began on July 5, 2023, with a monthly rent of \$3000.00 due the first day of each month. The Landlord did not receive a security deposit from the Tenant.

The Landlord testified as follows. The Tenant and Landlord signed the tenancy agreement on July 5, 2023. The Tenant provided the Landlord with two cheques this same day, for July rent and for the security deposit. The Landlord deposited these cheques to their bank account.

In mid July 2023, the Landlord received two letters from RBC Bank dated July 10, 2023, notifying the Landlord that the cheques did not clear because the Tenant's bank account had been closed. The deposits the Landlord made for the Tenant's rent and security deposit were rejected due to insufficient funds, as the Tenant's bank account was no longer open.

On July 18, 2023, the Landlord emailed the Tenant about the July rent and security deposit not being deposited. The Tenant responded and said they would e-transfer the July Rent and security deposit that day. The Landlord did not receive an e-transfer from the Tenant. The Landlord served the 10 Day Notice to the Tenant in person on July 19, 2023.

The tenancy agreement states that the tenant is responsible for utilities. The Landlord issued a 30 day demand for the Tenant to pay the utilities on September 17, 2023. The Tenant did not pay the utilities. The Tenant did not pay rent for July, August or September 2023. The total arrears are \$9000.00 for unpaid rent, and \$195.11 for unpaid utilities.

The Landlord provided documentary evidence supporting their claims.

Should the landlord's 10 Day Notice be cancelled?

Based on the Landlord's undisputed testimony and supporting documentary evidence, I find the Tenant breached the Act by not paying rent for July, August, and September 2023. I find the Landlord had a valid reason to issue the 10 Day Notice.

The Tenant's application to cancel the Landlord's 10 Day Notice is dismissed, without leave to reapply.

Is the landlord entitled to an Order of Possession?

I find the Landlord is entitled to an Order of Possession and under sections 46 and 55 of the Act.

Is the Landlord entitled to a Monetary order for Unpaid Rent and Utilities?

I find the Landlord issued a 30 Day Written Demand for payment of utilities on September 17, 2023. As 30 days had not passed at the date of the hearing, I find the Landlord is not entitled to a Monetary Order for unpaid utilities under section 46(6) of the Act.

I find the Tenant failed to pay rent in July, August, and September 2023. I find the total arrears for unpaid rent are \$9000.00. I find the Landlord is entitled to a Monetary Order for unpaid rent under section 55(1.1) of the Act.

Conclusion

I grant an Order of Possession to the landlord **effective two (2) days after service on the Tenant**. The Landlord must serve this Order to the Tenant. The Tenant and anyone else occupying the rental unit must out of the rental unit two (2) days after they are given this Order.

This Order may be filed and enforced as an Order of the Supreme Court of British Columbia. The costs of this enforcement are recoverable from the Tenant.

Under section 55(1.1) of the Act, I grant the Landlord a Monetary Order for unpaid rent of **\$9000.00**.

This order must be served to the tenant. If the tenant does not pay, the order may be filed and enforced in the Small Claims Division of the Provincial Court of British Columbia.

Monetary Issue	Granted Amount
a Monetary Order for unpaid rent under section 55 of the Act	\$9000.00
Total Amount	\$9000.00

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 28, 2023

Residential Tenancy Branch