



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR-MT, RP, OLC, FFT, OPR-DR, MNR-DR, FFL

Introduction

- 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
- an order for the landlord to make repairs to the rental unit under sections 32 and 62 of the Act
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act
- an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) under sections 46 and 55 of the Act
- a Monetary Order for unpaid rent under sections 26, 55 and 67 of the Act
- authorization to recover the filing fee for this application from the landlord under section 72 of the Act
- authorization to recover the filing fee for this application from the tenant under section 72 of the Act

Preliminary Matters

The tenant affirms receiving the 10 Day Notice of September 3 or 4 of 2023. The landlord provided a Proof of Service Notice to End Tenancy RTB-34 stating the 10 Day Notice was served to the tenant in person on September 2, 2023. The RTB-34 was signed by a witness to the service.

The tenant's intake payment for Dispute Resolution is dated September 14, 2023, more than 5 days after receiving the 10 Day Notice. The tenant did not have a sufficient reason for being late in filing.

Issue(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Is the tenant entitled to an order for the landlord to make repairs to the rental unit?

Is the tenant entitled to an order requiring the landlord to comply with the Act, regulation or tenancy agreement?

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

Is the tenant entitled to recover the filing fee for this application from the landlord?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord provided a copy of the 10 Day Notice served to the tenant on September 2, 2023. The Notice is signed September 2, 2023, and requests \$1685.00 in unpaid rent due on September 1, 2023.

The landlord affirms that the tenant has unpaid rent for September 2023 in the amount of \$1685.00. The tenant confirms having unpaid rent for September 2023

The landlord affirms that full rent for October of 2023 remains unpaid in the amount of \$1850.00. The tenant affirms paying \$1500.00 to the landlord by e-transfer on October 27, 2023. The landlord affirms this was not paid.

Analysis

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

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 September 2, 2023, and that the tenant had until September 7, 2023, to dispute the 10 Day Notice or to pay the full amount of the arrears.

The tenant affirms the unpaid rent requested in the 10 Day Notice remains unpaid, and the tenant was late filing an Application for Dispute Resolution without sufficient reason.

For the above reasons, 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 is dismissed, without leave to reapply.

Section 55(1) of the Act states that if a tenant makes an application to set aside a landlord's notice to end a tenancy and the application is dismissed, the Arbitrator must grant the landlord an order of possession if the notice complies with section 52 of the Act. I find that the Notice complies with section 52 of the Act.

Therefore, I find that the landlord is entitled to an Order of Possession.

Is the tenant entitled to an order for the landlord to make repairs to the rental unit?

As the 10 Day Notice was not cancelled and the landlord is being given an Order of Possession, this issue was not adjudicated and is dismissed, without leave to reapply.

Is the tenant entitled to an order requiring the landlord to comply with the Act, regulation or tenancy agreement?

As the 10 Day Notice was not cancelled and the landlord is being given an Order of Possession, this issue was not adjudicated and is dismissed, without leave to reapply.

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

I find that the landlord has established a claim for \$3515.00 in unpaid rent for September and October of 2023. Therefore, I find the landlord is entitled to a Monetary Order for unpaid rent under section 67 of the Act.

Is the tenant entitled to recover the filing fee for this application from the landlord?

As the tenant was not successful in this application, the tenant's application for authorization to recover the filing fee for this application from the landlord under section 72 of the Act is dismissed, without leave to reapply.

Is the landlord entitled to recover the filing fee for this application from the tenant?

As the landlord was successful in their application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

Conclusion

I grant an Order of Possession to the landlord **effective two (2) days after service of this Order on the tenant(s)**. Should the tenant(s) or anyone 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 **\$3,615.00** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for unpaid rent under section 55 of the Act	\$3515.00
authorization to recover the filing fee for this application from the tenant under section 72 of the Act	\$100.00
Total Amount	\$3,615.00

The landlord is provided with this Order in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) 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: November 29, 2023

Residential Tenancy Branch