

## **DECISION**

### **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).

The Landlord applied for an Order of Possession based on the 10 Day Notice, for a Monetary Order for unpaid rent, and for authorization to recover the filing fee for this application from the Tenant.

The Landlord acknowledged being served with the Tenant's dispute package and evidence, which was dropped off through their mail slot on October 12, 2023. I deem the Tenant was served with the Landlord's dispute package and evidence by posting to the door of the rental unit on October 12, 2023.

### **Issues to be decided**

Should the Landlord's 10 Day Notice be cancelled?

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

Is the Landlord entitled to a monetary order for unpaid rent?

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

### **Facts and Analysis**

This tenancy began on September 28, 2020, with a monthly rent of \$1449.42 and with a security deposit of \$700.00.

The Landlord testified as follows. The Tenant has not paid the rent for August, September, October, and November 2023. The Landlord issued the 10 Day Notice for unpaid rent on October 3, 2023, and served it to the Tenant by attaching to the door of the rental unit.

The rent is paid by pre-authorized debit to the Tenant's account. The Tenant had insufficient funds to pay the rent in August and September 2023, so the transactions

were returned NSF. The Tenant applied stop payments through their bank for October and November 2023. The total arrears for unpaid rent are \$5797.68.

The Landlord provided a ledger of rent payments from the Tenant, and an email to the Tenant enclosing a stop payment notice received by the Landlord as evidence to support their claims.

### **Should the Landlord's 10 Day Notice be cancelled?**

Section 26 of the Act states that the Tenant must pay rent. Section 46 of the Act states that a Landlord may issue a 10 Day Notice to end tenancy for unpaid rent on any day after the rent is due.

Based on the Landlord's undisputed testimony and supporting evidence, I find the Tenant breached the Act by not paying rent for August to November 2023. I find that the Landlord had a valid reason to issue the 10 Day Notice under section 46 of the Act.

For these reasons, the Tenant's application to cancel the 10 Day Notice is dismissed, without leave to reapply.

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

I find the 10 Day Notice issued by the Landlord meets the requirements for form and content under section 52 of the Act. I find the 10 Day Notice was given for valid reasons under the Act, and the Landlord is entitled to an Order of Possession under sections 46 and 55 of the Act.

Tenancy Policy Guideline 54 sets out the factors to consider when determining the effective date for an Order of Possession. As the rent has been unpaid by the Tenant for four months, I find the Landlord would be prejudiced by any further delay in the Tenant vacating the rental unit. However, the Tenant has lived in the rental unit for more than three years and will require more than the minimum two days to vacate the unit.

For these reasons, the Order of Possession will be effective 10 Days after it is served to the Tenant by the Landlord.

### **Is the Landlord entitled to a monetary order for unpaid rent?**

I find the tenant failed to pay \$5797.68 for rent for August to November 2023. I find that the Landlord is entitled to a Monetary Order for unpaid rent under section 55(1.1) of the Act.

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

As the Landlord was successful in their application, I find the Landlord is entitled to recover their filing fee for this application from the Tenant under section 72 of the Act.

## Conclusion

I grant an Order of Possession to the Landlord **effective ten (10) days after the Tenant is served this Order**. The Landlord must serve this Order to the Tenant. The Tenant and anyone else occupying the rental unit must move out 10 days after they receive this Order.

If the Tenant does not comply with this Order, this Order may be filed and enforced in the Supreme Court of British Columbia.

The Tenant is reminded that the rental unit must be left clean and without damage in accordance with section 37 of the Act. The Landlord is reminded to schedule and complete a move out inspection in accordance with section 35 of the Act.

I find the Landlord is entitled to a Monetary Order of \$5797.68 for unpaid rent, and to recover their filing fee for this application of \$100.00. I Order the Landlord to retain the security deposit of \$700.00 with interest in partial satisfaction of this debt. I Order the Tenant to pay the Landlord the balance due of **\$5185.22**.

The Landlord must serve this Order to the Tenant as soon as possible. If the Tenant does not pay, this Order may be filed and enforced in the Small Claims Division of the Provincial Court of British Columbia.

Monetary Issue	Granted Amount
Unpaid rent	\$5797.68
Landlord's filing fee	\$100.00
Security Deposit with interest	- \$712.46
<b>Total Amount</b>	<b>\$5185.22</b>

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: November 28, 2023

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Residential Tenancy Branch