



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding EVERGLADE DEVELOPMENT
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes Tenant: CNR CNC OLC
Landlord: OPR MNR FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference. Both parties applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the “Act”).

The first hearing was held on December 11, 2023, and the proceeding was adjourned due to issues with service and with the initial Notice of Dispute Resolution Proceeding initially provided to the Tenant. A new Notice of Dispute Resolution Proceeding was issue by the branch following that first hearing, and both parties were given a copy of this Notice of Dispute Resolution Proceeding by the RTB. Both parties were also given more time to provide any evidence they felt was relevant leading up to the second hearing on January 9, 2024.

Tenant's Application

Although both parties attended the first hearing, only the Landlord attended the second hearing. The first hearing was only a few minutes to deal with application issues, and the merits were not discussed until the second hearing. The Tenant did not attend the second hearing. The hearing was by telephone conference and began promptly, as scheduled, at 1:30 pm Pacific Time on January 9, 2024, as per the Notice of a Dispute Resolution Hearing provided to the parties. The line remained open while the phone system was monitored for 10 minutes and the only participant who called into the hearing during this time was the Landlord who was ready to proceed. The Landlord testified that the Tenant continues to reside in the rental unit.

After the ten minute waiting period, the Tenant's application was **dismissed in full, without leave to reapply**.

Section 55 of the *Act* applies and states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [landlord's notice: non-payment of rent], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

[My emphasis added]

Under section 55 of the *Act*, when a Tenant's application to cancel a notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52, I must grant the Landlord an order of possession. Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I find the 10 Day Notice issued on November 2, 2023, complies with section 52 of the *Act*, in terms of the form and content requirements. As such, I find the Landlord is entitled to an order of possession, pursuant to section 55 of the *Act*. This order will be effective 2 days after it is served on the Tenant.

Next, I turn to section 55 (1.1) of the *Act*, which specifies that I must grant a monetary order for outstanding unpaid rent, provided a valid 10 Day Notice was issued, and if the Tenant's application to cancel the 10 Day Notice is dismissed.

The Landlord testified that the Tenant has not paid any rent following the November 10 Day Notice, so he now owes rent for Nove – January (3 months). The Landlord testified that monthly rent is \$800.00 and is due on the first of the month. I find the Landlord is entitled to a monetary order for \$2,400.00 for these amounts.

Pursuant to section 72 of the Act, I also award the Landlord the recovery of the filing fee, \$100.00, he paid to pursue his application (cross application), since it was all related to the unpaid rent.

Conclusion

Pursuant to section 55 of the Act, the Landlord is granted an order of possession effective **two days after service** on the Tenant. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

The Landlord is granted a monetary order pursuant to Section 67 in the amount of **\$2,500.00**. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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: January 11, 2024

Residential Tenancy Branch