



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding CENTURY 21 QUEENSWOOD, also known as CENTURY
21 QUEENSWOOD REALTY LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, CNE-MT, RR, LRE
OPR-DR, MNR-DR, FFL

Introduction

This hearing was scheduled to convene at 11:00 a.m. on February 29, 2024 concerning applications made by the tenant and by the landlord.

The tenant has applied for an order cancelling a notice to end the tenancy for unpaid rent or utilities; an order cancelling a notice to end the tenancy for end of employment; more time than prescribed to dispute a notice to end the tenancy; an order reducing rent for repairs, services or facilities agreed upon but not provided; and an order limiting or setting conditions on the landlord's right to enter the rental unit.

The landlord has applied for an order of possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application. The landlord's application was made by way of the Direct Request process, which was referred to this participatory hearing, joined to be heard with the tenant's application.

An agent, a witness, an observer and the person identified as the owner of the rental unit attended the hearing. The landlord's agent and the witness each gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

Since the tenant has not attended the hearing, I dismiss the tenant's application in its entirety without leave to reapply.

The landlord's witness testified that the tenant was served with the landlord's Notice of Dispute Resolution Proceeding and all of the landlord's evidentiary material by registered mail on January 8, 2024 and has provided a copy of a Proof of Service document confirming that testimony, which includes a tracking number. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence of the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

The issues remaining to be decided are:

- Has the landlord established that the 10 Day Notice to End Tenancy For Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord's agent (CM) testified that this fixed-term tenancy began on December 1, 2023 and is to revert to a month-to-month tenancy after November 30, 2024. The landlord's agent is not certain if the tenant has vacated; the tenant gave notice to end the tenancy and the parties have scheduled a move-out condition inspection for today.

Rent in the amount of \$2,495.00 is payable on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$1,247.50 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a duplex, and a copy of the tenancy agreement has been provided for this hearing.

The landlord's agent further testified that the tenant was served with a 10 Day Notice to End Tenancy For Unpaid Rent or Utilities (the Notice) by email and by registered mail on January 8, 2024. A copy of the Notice has been provided for this hearing and it is dated January 5, 2024 and contains an effective date of vacancy of January 23, 2024 for unpaid rent in the amount of \$2,495.00 that was due on January 1, 2024. The tenant has not paid the rent and has not paid rent for February, 2024, and the landlord claims unpaid rent in the amount of \$4,990.00. A Tenant Statement has also been provided for this hearing.

Analysis

Firstly, the law states that if a tenant pays the rent in full within 5 days of receiving the Notice, the Notice is of no effect. The law also states that where I dismiss a tenant's application to cancel a notice to end the tenancy, I must grant an order of possession in favour of the landlord, so long as the notice given is in the approved form.

I have reviewed the Notice and I find that it is in the approved form and contains information required by the *Act*. Therefore, I grant an order of possession in favour of the landlord. Since the effective date of vacancy has passed, I grant the order of possession effective on 2 days notice to the tenant. The tenant must be served with the order of possession which may be filed in the Supreme Court of British Columbia for enforcement.

I have also reviewed the Tenant Statement, which includes late fees. Since the landlord made the application by way of the Direct Request process, the landlord could not claim any monetary relief other than unpaid rent and recovery of the filing fee.

I accept the undisputed testimony of the landlord's agent that the tenant did not pay the rent and arrears continued to accumulate, and the tenant owes \$4,990.00 for January and February, 2024 rent.

Since the landlord has been successful with the application the landlord is also entitled to recover the \$100.00 filing fee from the tenant.

I grant a monetary order in favour of the landlord as against the tenant in the amount of \$5,090.00. The tenant must be served with the order which may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as an order of that Court.

The landlord holds a security deposit of \$1,247.50. I order the parties to deal with the security deposit in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety without leave to reapply.

I hereby grant an order of possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$5,090.00.

I hereby order the parties to deal with the security deposit in accordance with Section 38 of the *Residential Tenancy Act*.

This order is final and binding and may be enforced.

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: February 29, 2024

Residential Tenancy Branch