



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPR-DR, MNR-DR, MNDL, FFL, CNR, CNC, CNL, MNDCT, RR, RP, LRE, OLC, FFT

Introduction

The landlords requested:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67.
- a monetary order for compensation for money owed or damages under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

The tenant requested:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70; and

- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

While the landlord attended the hearing by way of conference call, the tenants did not. I waited until 9:40 a.m. to enable the tenants to participate in this scheduled hearing for 9:30 a.m. The landlords were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The landlord gave sworn testimony that on April 4, 2024 copies of the Application for Dispute Resolution hearing package ('Application') and evidence were personally served to the tenants. In accordance with section 89 of the *Act*, I find that the tenants were duly served with copies of the landlords' application and evidence.

The landlords provided undisputed testimony that the tenant was served with the 10 Day Notice, on March 18, 2024 by way of posting it on the tenant's door. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on March 21, 2024, three days after posting. The landlord advised that they were not served with the tenants Notice of hearing package, application or evidence. As the tenants chose not to participate in this teleconference, I hereby dismiss their application in its entirety without leave to reapply.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession based on the 10 Day Notice?

Are the landlords entitled to a monetary award for unpaid rent or money owed under the tenancy agreement, regulation, or *Act*?

Are the landlords entitled to recover the filing fee for this application?

Background and Evidence

EH testified that the tenancy began on January 1, 2020. The tenants paid a security deposit of \$1075.00 which the landlord still holds. The monthly rent of \$2180.00 is due

on the first of the month. The tenants are also responsible for 50% of the hydro and gas. EH testified that the tenants did not pay the rent for March 2024 and served them with a 10 Notice to End Tenancy for Unpaid Rent or Utilities on March 18, 2024. EH testified that the tenants didn't pay the rent for April 2024 either. EH testified that the tenants have been falling behind on utility costs as well. EH testified that written demand letters were given to the tenants on November 24, 2023, January 14, 2024 and March 1, 2024. EH testified that the landlord seeks the unpaid utilities of \$593.00 along with two months of unpaid rent; \$4,360.00 and the recovery of the filing fee of \$100.00 for a total monetary claim of \$5,053.00.

Analysis

Section 55(1) of the *Act* reads as follows:

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.

In the absence of any evidence or submissions from the tenant, I order the tenant's application dismissed without liberty to reapply. I find that the 10 Day Notice complies with section 52 of the *Act*.

Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that this tenancy has ended. I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenants. If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

The landlord provided undisputed evidence that the tenants failed to pay the rent in full for the months of March and April 2024. Therefore, I find that the landlord is entitled to \$4,360.00 in arrears for the above period. The landlord also provided undisputed

evidence that the tenants failed to pay \$593.00 in utilities; accordingly, I grant them that amount.

The landlord continues to hold the tenant's security deposit in the amount of \$1,075.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord retain the tenant's security deposit and accrued interest of \$30.75 in partial satisfaction of the monetary claim.

I find that the landlord is entitled to recovery the \$100.00 filing fee from the tenants.

The landlord applied for damages in the unit however they are premature in that claim as the tenants are still occupying the unit and have not conducted a final inspection for the total amount; accordingly, I dismiss that portion of their application with leave to reapply. The landlord is at liberty to file an application for any damages after the unit is empty and any future rent loss.

Conclusion

As the tenants did not attend this hearing, their entire application is dismissed without leave to reapply.

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenants**. Should the tenants 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 issue Monetary Order in favour of the landlord under the following terms, which allows the landlord to recover unpaid rent, unpaid utilities, and the filing fee, and also allows the landlord to retain the tenant's security deposit:

Item	Amount
Unpaid Rent for March and April 2024	\$4,360.00
Unpaid Utilities	593.00
Recovery of Filing Fee	100.00
Less Security Deposit	-1,105.75
Total Monetary Order	\$3,947.25

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: April 20, 2024

Residential Tenancy Branch