



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, FFT
 OPR-DR, MNR-DR, FFL

Introduction

This hearing was scheduled to convene at 9:30 a.m. on April 19, 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 and to recover the filing fee from the landlord for the cost of the application.

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

An agent for the landlord attended the hearing and 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. Therefore, I dismiss the tenant's application without leave to reapply.

The landlord's agent submitted that the tenant was not served with the landlord's application or Notice of Dispute Resolution Proceeding, or any evidence. Any evidence that a party wishes to rely on must be provided to the other party, even if they already have a copy because it is important for all parties to know what is before me. Since the landlord has not served any documentation to the tenant, I dismiss the landlord's application with leave to reapply, and I decline to consider any of the landlord's evidence.

However, the *Residential Tenancy Act* states that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an order of possession in favour of the landlord, so long as the notice given is in the approved form.

The tenant has provided a copy of a 10 Day Notice to End Tenancy For Unpaid Rent or Utilities. It is dated March 5, 2024 and contains an effective date of vacancy of March 21, 2024 for unpaid rent in the amount of \$850.00 that was due on March 1, 2024. I have reviewed the Notice and I find that it is in the approved form and contains information required by the *Residential Tenancy 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 with the Supreme Court of British Columbia for enforcement.

The landlord's agent testified that the tenant is in arrears of rent the sum of \$4,250.00, however the 10 Day Notice to End Tenancy For Unpaid Rent or Utilities indicates that the tenant failed to pay rent in the amount of \$850.00. The law states:

- 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.

Since the only evidence I can consider is the 10 Day Notice to End Tenancy For Unpaid Rent or Utilities provided by the tenant, which indicates that the tenant owes \$850.00 for unpaid rent, I grant a monetary order in favour of the landlord as against the tenant in that amount.

Since the landlord has not served the tenant, I decline to order that the landlord recover the filing fee from the tenant.

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 \$850.00.

The landlord's application is hereby dismissed with leave to reapply.

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: April 19, 2024

Residential Tenancy Branch