

DECISION

Introduction

This hearing dealt with cross applications including:

The Landlord's May 24, 2024, Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice) under sections 46 and 55 of the Act
- a Monetary Order for unpaid rent under section 67 of the Act
- authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

The Tenant's June 3, 2024, Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) under sections 46 and 55 of the Act
- an order to suspend or set conditions on the Landlord's right to enter the rental unit under section 70(1) of the Act

The hearing was attended by the Landlord and their wife. The Tenant did not attend and was not represented. The Landlord provided sworn testimony and referred to evidence.

Preliminary Matters

I dismissed the Tenant's application in accordance with RTB Rule of Procedure 7.3 due to their failure to attend the June 21, 2024, hearing.

I amended the Tenant's last name as requested by the Landlord to match the last name as submitted on the Tenant's application, noting that it is different from the last name provided on the tenancy agreement that was signed only a few months prior in March 2024. I made this amendment under RTB Rule of Procedure 7.7.

Service of Notice and Evidence

The Landlord referred to proof of service by Registered mail on May 27, 2024, and testified that all required documentation and copies of all evidence uploaded to the RTB, was included in the registered mail package that was sent. I reviewed the proof tracking as provided and find that it was collected by the Tenant on May 28, 2024.

I therefore find that the Landlord served the Tenant as required by section 89 of the Act.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice) under sections 46 and 55 of the Act?
- Is the Landlord entitled to a Monetary Order for unpaid rent under section 67 of the Act?
- Is the Landlord authorized to retain all or a portion of the Tenant's security deposit and or pet damage deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act?
- Is the Landlord authorized to recover the filing fee for this application from the Tenant under section 72 of the Act?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that this tenancy began March 22, 2024, with monthly rent of \$1,750.00, due on the first day of the month, and payment of a \$875.00 security deposit and payment of an \$875.00 pet damage deposit.

The Landlord testified that they received payment of \$4,000.00 on March 22, 2024, and that this represented:

- Payment of prorated rent of \$500.00 for March 2024
- Payment of rent for April 2024
- Payment of the two deposits

The Landlord testified that they did not receive rent for May (\$1,750.00) or June 2024 (\$1,750.00), from the Tenant and that the Tenant abandoned the rental unit on June 11, 2024.

The Landlord testified that they are owed \$3,500.00 in rent.

The Landlord referred to a copy of the RTB 30-10 Day Notice to End Tenancy for nonpayment of rent dated May 2, 2024, with a stated move out date of May 18, 2024.

This Notice states that \$1,750.00 in rent was owing on May 1, 2024. The Landlord referred to proof of service provided as evidence and testified that the Notice was served to the Tenant's door on May 2, 2024.

The Landlord testified that the Notice was also received by the Tenant on May 2, 2024, because the Tenant came out of the residential property and began tearing the Notice from the door.

The Landlord testified that there was significant damage in the property.

Analysis

The landlord is responsible under RTB Rule of Procedure 6.6 to establish on the balance of probabilities, the validity of the notice to end tenancy. There is a three-part test, in accordance with the Act, that examines the validity of a notice to end tenancy including:

1. Service of the notice - section 88 and 90 of the Act
2. Specific information recorded on the notice - section 52 of the Act
3. Reason for the notice - section 46 of the Act

I find that the Landlord served the Tenant with a copy of the 10-day Notice dated May 2, 2024, as required by section 88 of the Act and that the Tenant was deemed served on May 2, 2024, under section 90 of the Act. I find that the Tenant is conclusively presumed to have accepted the end of the tenancy under section 46(5) of the Act because they did not dispute this Notice.

I reviewed the Tenant's application for dispute resolution and find that it is to challenge a second 10-day Notice to end tenancy that appears to have been issued in June 2024.

I find that the Tenant is conclusively presumed to have accepted the end of their tenancy on May 18, 2024, under section 46(5) of the Act because the Tenant did not dispute the Notice dated May 2, 2024.

I find that the May 2, 2024, Notice complies with section 52 of the Act.

I find that the Landlord had grounds to issue the May 2, 2024, Notice because the Tenant did not pay rent in May 2024, and \$1,750.00 was owing.

Based on the above, I find that the May 2, 2024, Notice is valid.

Is the landlord entitled to an Order of Possession based on a Notice to End Tenancy?

I find that the Landlord is entitled to an Order of Possession under 55(1) and 55(2) of the Act for the 10-Day Notice dated May 2, 2024, because the Notice was valid.

I find that this Order of Possession will be effective immediately because the Tenant is understood to have vacated the rental unit 10 days prior and the Landlord only requires the Order for their records.

Is the landlord entitled to a Monetary Order for unpaid rent?

As noted above, I find that the notice to end tenancy dated May 2, 2024, is valid.

I find that the Tenant did not pay rent as required for May (\$1,750.00) or June (1,750.00) and that the Landlord is entitled to payment of \$3,500.00.

I make this award for rent in accordance with RTB Policy Guidelines 3 and 16, and award compensation for the full month of June 2024, because the Tenant is understood to have abandoned the unit.

I find that the Landlord is entitled to an order for unpaid rent in the amount of \$3,500.00. I make this order under section 55(1.1) of the Act.

$\$1,750.00 + \$1,750.00 = \$3,500.00$

Because evidence was also received that the Tenant paid an \$8,75.00 security deposit and an \$875.00 pet-damage deposit, the current value of these deposit must be offset against monies owed. According to the online Residential Tenancy Interest Calculator, these deposits is \$1,761.88 as at the day of the hearing.

I therefore order that the Landlord is entitled to retain the full value of these deposits under section 72 of the Act to partially satisfy monies owed.

Is The Landlord entitled to recover the filing fee for this application from the landlord?

The Landlord were both was successful in their application and so I find that they are entitled to recover the \$100.00 fee from the Tenant under section 72 of the Act.

Conclusion

I grant an Order of Possession to the Landlord **effective immediately**.

I grant the Landlord a Monetary Order in the amount of **\$1,838.12** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for unpaid rent under section 55 of the Act	\$3,500.00
Authorization to recover filing fee	\$100.00
Retain Security and Pet Deposits with current value	-\$1761.88
Total Amount	\$1,838.12

The Landlord is provided with this Order in the above terms and 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.

The Tenant's application is dismissed without leave to reapply.

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: June 21, 2024

Residential Tenancy Branch