

DECISION

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear linked applications.

The Tenant's June 7, 2024 Application for Dispute Resolution under the Act is for:

- Cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) under section 46 of the Act

The Landlord's June 11, 2024 Application for Dispute Resolution under the Act is for:

- An Order of Possession under a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) pursuant to sections 46 and 55;

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

The Landlord acknowledges service of the Proceeding Package and is duly served in accordance with the Act.

The Tenant acknowledges service of the Proceeding Package and is duly served in accordance with the Act.

Service of Evidence

Based on the submissions before me, I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act.

Based on the submissions before me, I find that the Landlord's evidence was served to the Tenant in accordance with section 88 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?

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

Facts and Analysis

I will only refer to evidence and testimony that I find relevant in my decision.

Landlord DB, and Tenants LR and MZ signed the tenancy agreement on December 18, 2023. The tenancy started on January 1, 2024, with a monthly rent of \$4,775.00 due on the first day of each month. The Landlord collected \$2,387.50 for the security deposit on December 18, 2023.

As per the text messages presented in the evidence by the Landlord, between June 1 and June 4, 2024, there was discussion on the availability of funds in the Royal Bank of Canada (RBC) bank account for which the Landlord possessed post-dated cheques in order to collect rent. The funds were not available as confirmed by Tenant LR on June 4, 2024, and LR advised that they would come by to pick up the 10 Day Notice on the same day.

At this time, the Landlord states that they had not yet attempted to cash the post-dated cheque for June 2024 rent based on the advice of the Tenant because the account did not have the funds. Thus, the Landlord issued a 10 Day Notice on June 4, 2024, which was confirmed to have been received on the same day by Tenant LR. The 10 Day Notice indicated a move-out date of June 15, 2024, and listed \$4,775.00 in unpaid rent.

On June 6, 2024, the Landlord attempted to cash the cheque, but the cheque bounced, and the reason given by the bank was that the bank account in question had been closed. The Landlord provided the cheque bounce notification to substantiate this. Tenant LR states that, to his recollection, the account was closed on the 6th or 7th of June. The Tenant confirms that, as of the date of this hearing, June 2024 rent remains unpaid. None of the Tenants presented any lawful reason for withholding rent.

Is the Landlord entitled to an Order of Possession based on a 10 Day Notice to end tenancy?

Section 46 of the Act states that upon receipt of a 10 Day Notice, the tenant must, within five days, either pay the full amount of the arrears as indicated on the 10 Day Notice or dispute the 10 Day Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant(s) do not pay the arrears or dispute the 10 Day Notice they are conclusively presumed to have accepted the end of the tenancy under section 46(5).

Based on the testimony of both parties, I find that the 10 Day Notice was duly served to the Tenants on June 4, 2024, and that the Tenants had until June 9, 2024, to dispute the 10 Day Notice or to pay the full amount of the arrears. Tenant LR disputed the notice on June 7, 2024, within the required timeline.

It is a confirmed fact that June 2024 rent has not been paid as of the date of this hearing. Tenants LR and MZ have not presented any lawful reason for withholding rent.

I also find no flaws in the 10 Day Notice that is the subject of this proceeding. Thus, I dismiss the application for the cancellation of the 10 Day Notice dated June 4, 2024. The 10 Day Notice is valid, and I conclude that this tenancy ended on June 15, 2024.

Section 55(1) of the Act states that if a tenant makes an application to set aside a landlord's notice to end a tenancy and the application is dismissed, the Arbitrator must grant the landlord an order of possession if the notice complies with section 52 of the Act. I find that the Notice complies with section 52 of the Act.

Therefore, I find that the Landlord is entitled to an Order of Possession.

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

Section 55(1.1) of the Act states that if a tenant makes an application to set aside a landlord's notice to end a tenancy under section 46 of the Act for non-payment of rent, and the application is dismissed, the Arbitrator must grant the landlord an order requiring the repayment of the unpaid rent if the notice complies with section 52 of the Act. I have already established that the 10 Day Notice complies with the Act.

Therefore, I find the Landlord is entitled to unpaid rent in the amount of \$4,775.00 for June 2024 rent. As per section 72 of the Act, I authorize the Landlord to retain the \$2,387.50 security deposit in partial satisfaction of the monetary award. Thus, the Landlord is entitled to a Monetary Order in the sum of \$2,387.50.

Conclusion

I grant an Order of Possession to the Landlord **effective by 1:00 PM on July 21, 2024, after service of this Order 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 also grant the Landlord a Monetary Order in the amount of **\$2,387.50** under the following terms:

Monetary Issue	Granted Amount
June 2024 unpaid rent	\$4,775.00
Authorization to retain the security deposit	-\$2,387.50
Total Amount	\$2,387.50

The Tenants must be served with **this Order** as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed and enforced in the Small Claims Court of British Columbia if equal to or less than \$35,000.00. Monetary Orders that are

more than \$35,000.00 must be filed and enforced in the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: July 9, 2024

Residential Tenancy Branch