

DECISION

Introduction

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

The Tenant's June 11, 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
- A Monetary Order for compensation for damage or loss under the act, residential tenancy regulation (regulation) or tenancy agreement, pursuant to section 67
- An Order to reduce the rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65
- An Order requiring the Landlord to carry out repairs, pursuant to section 32
- An Order to restrict or suspend the Landlord's right of entry, under section 70
- An Order of authorization to change the lock, pursuant to sections 31 and 70
- An order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

The Landlord's June 17, 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
- A Monetary Order for unpaid rent, pursuant to section 67
- An authorization to recover the filing fee for this application, under section 72

Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and the Evidence

The Landlord refutes service of the Proceeding Package. The Tenant has provided a proof of service document indicating that the Proceeding Package was served in-person in the presence of a witness. The Landlord states that they never received the Proceeding Package or any other documentation from the Tenant for this hearing. The Tenant did not attend the hearing to provide further details on how the Proceeding Package was served. I conclude that the Landlord was not served with the Proceeding Package, nor the Tenant's evidence, in accordance with the Act.

The Landlord states that the Proceeding Package and evidence was sent to the rental unit. The Landlord provided Canada Post tracking numbers and receipts to substantiate. The Canada Post tracking website indicates that the Proceeding Package was sent on June 20, 2024, and a signature for delivery was made on June 28, 2024. The tracking website also indicates that the evidence package was sent on June 29, 2024, and a signature for delivery was made on July 4, 2024. I conclude that the Tenant was served with the Proceeding Package as well as the Landlord's evidence in accordance with the Act.

Preliminary Matters

Should the hearing proceed without the Tenant?

The Landlord and I were in the teleconference for a total of 30 minutes, until 10:00 AM. Rule of Procedure 7.8 requires the Tenant to have a representative attend the hearing and ask for an adjournment if they require one.

The Landlord was ready to proceed. In the absence of any contact from the Tenant to request an adjournment, I proceeded with the hearing as permitted by Rule 7.3.

Tenant's Proceeding Package not served to Landlord – application dismissed

As the Landlord was not served with the Proceeding Package in accordance with the Act by the Tenant, the Tenant's application is dismissed.

The following claims are dismissed without leave to reapply, as they have been rendered moot by this decision:

- Cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) under section 46 of the Act
- An Order requiring the Landlord to carry out repairs, pursuant to section 32
- An Order to restrict or suspend the Landlord's right of entry, under section 70
- An Order of authorization to change the lock, pursuant to sections 31 and 70
- An order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

The following claims are dismissed with leave to reapply, as their merits have not been explored:

- A Monetary Order for compensation for damage or loss under the act, residential tenancy regulation (regulation) or tenancy agreement, pursuant to section 67

- An Order to reduce the rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65

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?

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

Facts and Analysis

Based on the undisputed testimony of the Landlord, this tenancy started on March 23, 2024, with a monthly rent of \$3,800.00 due on the first day of each month. According to the Landlord, on or around March 22, 2024, a security deposit in the amount of \$1,900.00 was collected by the Landlord. The Landlord confirms they still hold the full security deposit.

The Tenant did not pay rent on June 1, 2024. Thus, on June 3, 2024, the Landlord signed a 10 Day Notice to end tenancy for unpaid rent indicating a move-out date of June 18, 2024, and arrears in the sum of \$3,800.00. The Landlord sent the 10 Day Notice by Canada Post registered mail to the rental unit on June 4, 2024, and has supplied the tracking number to substantiate this. I deem that the Tenant received the 10 Day Notice on June 9, 2024, 5 days after the registered mailing because the Tenant's application to dispute the 10 Day Notice indicates that the notice was received on this day.

As of the date of this hearing, the Landlord states that they have only received \$800.00 towards the missing rent, and that \$3,000.00 from June 2024 rent remains unpaid.

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).

I deem that the 10 Day Notice was received by the Tenant on June 9, 2024, and that the Tenant had until June 14, 2024, to dispute the 10 Day Notice or to pay the full amount of the arrears. The Tenant disputed the 10 Day Notice on June 11, 2024, but has not attended the hearing to provide any lawful reason(s) for withholding rent.

Based on undisputed evidence and testimony before me, I find the Tenant failed to pay the missing rent within five days of receiving the 10 Day Notice. Thus, I uphold the 10 Day Notice and conclude that this tenancy ended on June 19, 2024, the automatically corrected effective date on the 10 Day Notice.

Therefore, I find that the Landlord is 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?

I conclude that the Landlord is still owed \$3,000.00 as of the date of this hearing out of the total arrears listed on the 10 Day Notice. I authorize the Landlord to retain the \$1,900.00 security deposit as partial satisfaction towards the total amount owed by the Tenant.

Thus, the Landlord's application for a Monetary Order for unpaid rent under section 67 of the Act is granted and I award the Landlord with a Monetary Order in the sum of \$1,100.00 for the remaining amount of June 2024 unpaid rent.

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

As the Landlord was successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

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 Tenant**. Should the Tenant 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 grant the Landlord a Monetary Order in the amount of **\$1,200.00** under the following terms:

Monetary Issue	Granted Amount
June 2024 rent	\$3,800.00
Rent paid by Tenant prior to this hearing	-\$800.00
Security deposit	-\$1,900.00
Filing fee	\$100.00
Total Amount	\$1,200.00

I grant a Monetary Order to the Landlord in the amount of \$1,200.00. The Tenant must be served with **this Order** as soon as possible. Should the Tenant 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 11, 2024

Residential Tenancy Branch