



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlords requested:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant requested:

- cancellation of the landlords’ 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46.

The landlord participated in the teleconference, the tenant did not. The landlord provided evidence that he served the tenant his application, evidence and notice of hearing documents by registered mail on July 30, 2024. The tenant filed an application as well, however, did not call into the hearing. I am satisfied that the tenant was aware of today’s hearing and I am also satisfied that he was served with the landlords documentation. The hearing proceeded in the absence of the tenant. The landlord was given a full opportunity to present his evidence and make submissions.

Preliminary Issue – Dismissal of Tenant’s Application

Rule 7.3 of the RTB *Rules* 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.

In the absence of any evidence or submissions from the tenant, I order the tenant's entire application dismissed without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to the recovery of the filing fee for this application?

Background and Evidence

The landlord gave the following testimony. The landlord testified that the tenancy began on January 1, 2024. The monthly rent of \$2,850.00 is due on the first of each month. The tenant paid a security deposit of \$1,425.00 which the landlord still holds. The landlord testified that the tenant did not pay the July rent, for which he served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on July 8, 2024. The landlord testified that no rent was paid for July or August and seeks the recovery of the unpaid rent, the filing fee and an order of possession.

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 ended on the corrected effective date of the 10 Day Notice, July 20, 2024. 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 tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

The landlord provided undisputed evidence that the tenant failed to pay the rent in full for the months of July and August 2024. Therefore, I find that the landlord is entitled to \$5,700.00 in arrears for the above period.

The landlord continues to hold the tenant's security deposit in the amount of \$1,425.00 and the accrued interest of \$25.12. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security deposit and interest in partial satisfaction of the monetary claim.

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

The total amount owing to the landlord after the deposit and interest has been applied is \$4,349.88.

Conclusion

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

The landlord has established a claim for \$4,349.88 I grant the landlord an order under section 67 for the balance due of \$4,349.88. This order may be filed in the Small Claims Court and enforced as an order of that Court.

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenants**. 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.

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: August 26, 2024

Residential Tenancy Branch