

## **DECISION**

### **Introduction**

This hearing dealt with the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- cancellation of the Landlords' 10 Day Notice to End Tenancy for Unpaid Utilities (10 Day Notice) under sections 46 and 55 of the Act
- cancellation of the Landlords' One Month Notice to End Tenancy for Cause (One Month Notice) under section 47 of the Act
- authorization to recover the filing fee for this application from the Landlords under section 72 of the Act

This hearing also dealt with the Landlords' Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- an Order of Possession based on two 10 Day Notice's to End Tenancy for Unpaid Utilities (10 Day Notice) under sections 46 and 55 of the Act
- an Order of Possession based on two One Month Notice's to End Tenancy for Cause (One Month Notice) under sections 47 and 55 of the Act
- a Monetary Order for unpaid utilities under section 67 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

This is a reconvened hearing. The previous hearing was adjourned because the hearing did not complete within the scheduled time.

The Tenant testified they received the Landlords' Notice of Dispute Resolution Proceeding and Evidence.

### **Preliminary Matters**

Both parties testified that the Tenant did not serve the Notice of Dispute Resolution Proceeding Package (Proceeding Package) to the Landlord.

Section 82(1) of the Act provides the following:

An application for dispute resolution or a decision of the Director to proceed with a review under Division 2 of Part 6, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a Landlord, by leaving a copy with an agent of the Landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a Landlord, to the address at which the person carries on business as a Landlord;
- (d) if the person is a Tenant, by sending a copy by registered mail to a forwarding address provided by the Tenant;
- (e) [Repealed 2023-47-56.]
- (f) by any other means of service provided for in the regulations.

I find that the Tenant did not serve the Proceeding Package to the Landlords as required under section 82(1) of the Act. The Tenant's application is dismissed, without leave to reapply.

Under section 55 of the Act, when the Tenant's application to dispute a 10 Day Notice and One Month Notice is dismissed, I must consider if the Landlords are entitled to an Order of Possession and a Monetary Order for unpaid utilities, provided the Landlords have issued a notice to end tenancy that is compliant with section 52 of the Act.

Section 52 of the Residential Tenancy Act provides the following:

In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the Landlord or Tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [Tenant's notice], state the grounds for ending the tenancy,
  - (d.1) for a notice under section 45.1 [Tenant's notice: family violence or long-term care], be accompanied by a statement made in accordance with section 45.2 [confirmation of eligibility], and
- (e) when given by a Landlord, be in the approved form.

The Landlords testified that they did not provide a written demand letter for the unpaid utilities on July 16, 2024, and July 20, 2024, as indicated on the two 10 Day Notice's.

The two 10 Day Notice's dated July 31, 2024, do not provide the correct grounds for ending the tenancy as required under section 52 of the Act in order for a notice to end

tenancy to be effective. Therefore, the two 10 Day Notice's dated July 31, 2024, are cancelled and of no force or effect. The Landlords' application for a Monetary Order for unpaid utilities under section 67 of the Act is dismissed, with leave to reapply.

## **Issues to be Decided**

Are the Landlords entitled to an Order of Possession based on a Notice to End Tenancy?

Are the Landlords entitled to recover the filing fee for their application from the Tenant?

## **Background and Evidence**

I will refer only to what I find relevant for my Decision.

The parties testified that this tenancy began on December 1, 2022, with a current monthly rent of \$3,500.00, due on the first day of the month. The Tenant paid a security deposit of \$1,750.00.

The Tenant testified that the One Month Notice dated July 24, 2024, was received on July 29, 2024.

The Tenant testified that the One Month Notice dated August 22, 2024, was received in September 2024.

## **Analysis**

### **Are the Landlords entitled to an Order of Possession based on a Notice to End Tenancy?**

Section 55 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.

The Landlord had a valid reason to issue the Tenant a notice to end the tenancy for cause. The One Month Notice dated July 24, 2024, has been filled out accurately and given to the Tenant.

Therefore, I find that the Landlords entitled to an Order of Possession based on a One Month Notice under section 55 of the Act.

As I have already upheld the One Month Notice dated July 24, 2024, and granted the Landlords an Order of Possession, it is unnecessary to make any findings about the additional notice to end the tenancy.

**Are the Landlords entitled to recover the filing fee for their application from the Tenant?**

As the Landlords were successful in their application, I find that the Landlords are entitled to recover the \$100.00 filing fee paid for their application under section 72 of the Act.

**Conclusion**

I grant an Order of Possession to the Landlords **effective by 1:00 p.m. on October 31, 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 Landlords a Monetary Order in the amount of **\$100.00** under the following:

Monetary Issue	Granted Amount
authorization to recover the filing fee for their application from the Tenant under section 72 of the Act	\$100.00
<b>Total Amount</b>	<b>\$100.00</b>

The Landlords are provided with this Order and 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 Provincial Court of British Columbia (Small Claims Court).

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: October 9, 2024

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Residential Tenancy Branch