



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

A matter regarding BAYSIDE PROPERTY SERVICE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR-MT, FFT / CNR, PSF, LRE, OLC

Introduction

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

The Tenant's December 30, 2024 application pursuant to the Act is for:

- Cancellation of a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) and an extension of the time limit to dispute the 10 Day Notice under sections 46 and 66 of the Act;
- An authorization to recover the filing fee for this application, under section 72.

The Tenant's January 10, 2025 application pursuant to the Act is for:

- Cancellation of a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) pursuant to section 46;
- An Order requiring the Landlord to provide services or facilities as required by the tenancy agreement or the Act, pursuant to section 62;
- An Order to restrict or suspend the Landlord's right of entry, under section 70;
- An Order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act.

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

During the hearing, both parties confirmed that the Tenant had not served the Proceeding Package to the Landlord. The Landlord found out about the hearing from the Residential Tenancy Branch, and agreed to proceed with the hearing.

Service of Evidence

The Landlord states that they did not receive any evidence from the Tenant. The Tenant confirmed that they had not served their evidence to the Landlord, and thus, it shall not be considered.

The Tenant acknowledged service of the Landlord's evidence and is duly served in accordance with the Act.

Issue(s) to be Decided

Should the 10 Day Notice be cancelled? Or is the Landlord entitled to an Order of Possession and or a Monetary Order for unpaid rent?

Should there be an Order for the Landlord to provide services or facilities as required by the tenancy agreement or the Act?

Should the Landlord's right of entry to the rental unit be restricted or suspended?

Should there be an Order for the Landlord to comply with the Act, regulation, or tenancy agreement?

Is the Tenant entitled to recover their filing fee from the Landlord?

Facts and Analysis

Both parties confirmed that this tenancy started on May 15, 2024, with a monthly rent of \$2,400.00 due on the first day of each month. A \$1,200.00 security deposit, and a \$1,200.00 pet deposit, were both paid on May 9, 2024.

On December 18, 2024, the Landlord signed and issued a 10 Day Notice to end tenancy for unpaid rent. The 10 Day Notice indicated a move-out date of December 31, 2024, and listed \$2,400.00 in arrears for December 2024 rent. I understand that a second 10 Day Notice was issued at a later date for January 2025 rent.

The Tenant disputed the first 10 Day Notice on December 30, 2024, and states that they were under medical distress at the time which, in combination of the closure of offices during the holiday season, resulted in the late filing. I accept this reasoning for the late filing.

Both parties confirmed that, as of the date of the hearing, the Tenant has not paid any rent for December 2024 and January 2025. During the hearing, I reviewed all situations where a tenant may legally withhold rent and concluded that none apply to the circumstances before me. The Tenant provided personal circumstance as reasons for not being able to pay rent.

Should the 10 Day Notice be cancelled? Or is the Landlord entitled to an Order of Possession?

Although I sympathize with the Tenant for their personal circumstances, these reasons are not sufficient to cancel the 10 Day Notices. As both parties have confirmed that the Tenant has not paid the arrears for December 2024, the 10 Day Notice of December 18, 2024, is valid and confirmed.

I exercise my delegated authority under section 68 of the Act to amend the effective date of the 10 Day Notice dated December 18, 2024, to January 31, 2025, which captures the reality of circumstances given that the Tenant is continuing to occupy the rental unit as of the date of this hearing. I also amend the arrears to \$4,800.00 because both parties have agreed that this is the current amount owing for unpaid rent for December 2024 and January 2025. These findings render the second 10 Day Notice moot.

In accordance with section 55 of the Act, the Landlord is entitled to an Order of Possession on February 8, 2025, at 1:00 PM, and a Monetary Order for unpaid rent. I authorize the Landlord to retain the full security and pet damage deposits in the sum of \$2,400.00 in partial satisfaction of the arrears.

Should there be an Order for the Landlord to provide services or facilities as required by the tenancy agreement or the Act?

As the tenancy is ending, this claim has been rendered moot. It is dismissed without leave to reapply.

Should the Landlord's right of entry to the rental unit be restricted or suspended?

As the tenancy is ending, this claim has been rendered moot. It is dismissed without leave to reapply.

Should there be an Order for the Landlord to comply with the Act, regulation, or tenancy agreement?

As the tenancy is ending, this claim has been rendered moot. It is dismissed without leave to reapply.

Is the Tenant entitled to recover their filing fee from the Landlord?

As the Tenant was not successful in their applications, they are not entitled to recover the filing fee from the Landlord.

Conclusion

The Tenant's applications are dismissed, without leave to reapply.

This tenancy shall end because of the 10 Day Notice dated December 18, 2024; the amended effective date for the end of the tenancy is January 31, 2025. Any duration of occupation by the Tenant or any other person(s) in the rental unit following this date shall be considered overholding as defined in section 57 of the Act.

I grant an Order of Possession to the Landlord effective on **February 8, 2025, at 1:00 PM**, after service of this Order on the Tenant. Should the Tenant or any occupant 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 a Monetary Order to the Landlord **in the amount of \$2,400.00**, representing the remaining arrears after deducting from the security and pet damage deposits. 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 *Residential Tenancy Act*.

Dated: January 24, 2025

Residential Tenancy Branch