



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes

OPR-DR, MNR-DR, CNR, MNDCT, OLC, RP, LAT, AAT, FFL, FFT

Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities, a monetary Order for unpaid rent or utilities, and to recover the fee for filing an Application for Dispute Resolution.

The Tenant filed an Application for Dispute Resolution, in which the Tenant applied to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, for a monetary Order, for an Order requiring the Landlord to comply with the *Residential Tenancy Act* (Act), the *Residential Tenancy Regulation*, or the tenancy agreement, for an Order requiring the Landlord to make repairs, for authority to change the locks to the rental unit, for an Order requiring the Landlord to provide access to the rental unit, and to recover the fee for filing an Application for Dispute Resolution.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. The participants affirmed they would not record any portion of these proceedings.

Service of the Landlord's Notice of Dispute Resolution Proceeding (Proceeding Package)

XL initially stated that the Landlord's Application for Dispute Resolution and Proceeding Package was personally served to KA, on March 06, 2025. Upon further questioning, XL stated that he may not have served the Tenant with all the documents provided to the Landlord by the Residential Tenancy Branch.

KA stated that the Landlord served them with evidence on March 06, 2025, but the Landlord never served them with the Landlord's Application for Dispute Resolution.

I find the Landlord has failed to establish that the Proceeding Package was served to the Tenant in accordance with section 89 of the Act. I therefore dismiss the Landlord's Application for Dispute Resolution, with leave to reapply.

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

KA stated that the Tenant's Application for Dispute Resolution and Proceeding Package was sent to XL, by registered mail, on February 28, 2025. XL acknowledged receipt of these documents. I therefore find these documents were served in accordance with section 89 of the Act.

The Tenant did not name the Landlord with the initials LY in their Application for Dispute Resolution and, as such, was not required to serve the Proceeding Package to them.

As LY is not named on the Tenant's Application for Dispute Resolution, any orders granted as a result of the Tenant's Application for Dispute Resolution will not name LY.

Service of Evidence

On March 03, 2025, the Landlord submitted evidence to the Residential Tenancy Branch. XL stated that this evidence was personally served to the Tenant on March 06, 2025. KA acknowledged receipt of this evidence, and it was accepted as evidence for these proceedings.

On February 24, 2025, and February 27, 2025, the Tenant submitted evidence to the Residential Tenancy Branch. KA stated that this evidence was served to the Landlord with the Tenant's Proceeding Package. XL acknowledged receipt of this evidence, and it was accepted as evidence for these proceedings.

Preliminary Matter #1

The Tenant's application for a monetary Order is a duplicate of the Tenant's application to recover the fee for filing an Application for Dispute Resolution. This issue will be considered when in accordance with the application to recover the fee for filing an Application for Dispute Resolution.

Preliminary Matter #2

After being verbally advised that this tenancy was ending due to unpaid rent, the Tenant withdrew the application for authority to change the locks and for an Order requiring the Landlord to make repairs.

Issues to be Decided

Is the Landlord entitled to compensation for unpaid rent?

Is the Landlord entitled to an Order of Possession based on a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, or should that Notice be set aside?

Is there a need to issue an Order requiring the Landlord to comply with the Act, the Regulation, or the tenancy agreement? Specifically, is there a need to issue an Order requiring the Landlord not to serve legal documents by text message?

Is there a need to issue an Order requiring the Landlord to provide access to the rental unit?

Is the Tenant entitled to recover the fee for filing an Application for Dispute Resolution?

Background and Evidence

The Landlord and the Tenant agree that:

- this tenancy began on September 01, 2024
- the Tenant was required to pay monthly rent of \$1,500.00 by the first day of each month
- a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, which has a declared effective date of March 01, 2025, was posted on the door of the rental unit
- the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities declared that the Tenant owed \$1,500.00 in rent that was due on February 01, 2025
- rent for February of 2025 and March of 2025 has not been paid.

XL stated that the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was posted on the door of the unit on February 20, 2025, and that a photograph of it was sent to the Tenant by text message. KA stated that after receiving the photograph of the Notice by text message, the Tenant's friend removed the Notice from the door and left it inside the rental unit. KA stated that they located the Notice inside the rental unit on February 25, 2025.

The Tenant is seeking an Order requiring the Landlord to comply with the Act by not serving legal documents by text message. XL stated they are aware they cannot serve legal documents by text message.

The Tenant is seeking an Order requiring the Landlord from preventing the Tenant's guest from accessing the rental unit. This is based on the Landlord informing the Tenant that the police would be called if "strangers" went to the rental unit.

Analysis

Based on the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$1,500.00 by the first day of each month and that the Tenant did not pay the rent when it was due on February 01, 2025.

Section 46(1) of the *Act* entitles landlords to end a tenancy within ten days if rent is not paid when it is due by providing proper written notice. Based on the undisputed evidence I find that a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities,

served pursuant to section 46 of the *Act*, was posted at the rental unit on February 20, 2025, and that it was physically received by the Tenant on February 25, 2025.

Based on KA's testimony, I find that the Tenant received a photograph of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities on February 19, 2025.

Section 46(4) of the *Act* stipulates that a Tenant has five days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. Residential Tenancy Branch records show that the Tenant applied to dispute the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities on February 24, 2025, which is before the Tenant physically received the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities.

Section 46(4)(a) of the *Act* stipulates that if a tenant pays the overdue rent within five days of receiving a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities has no effect. As the tenant has not paid the outstanding rent from February of 2025, this section does not apply.

As the Tenant has paid no rent for February and the Tenant has not established a legal right for failing to do so, I find the Landlord has the right to end the tenancy pursuant to section 46 of the *act*. I therefore dismiss the Tenant's application to cancel the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities.

Section 55(1) of the *Act* stipulates that 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 the landlord's notice to end tenancy complies with section 52 of the *Act* and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

As the application to set aside the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities has been dismissed and the Notice to End Tenancy complies with section 52 of the *Act*, I grant the Landlord an Order of Possession, pursuant to section 55(1) of the *Act*.

Based on the undisputed evidence, I find that rent for February and March of 2025 has not been paid. As the Tenant is required to pay rent when it is due, pursuant to section 26(1) of the *Act*, I find that the Tenant owes \$3,000.00 in rent for February and March of 2025.

Section 55(1.1) of the *Act* stipulates that if tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities the director must grant to the landlord an order requiring the payment of the unpaid rent if the landlord's notice to end tenancy complies with section 52 of the *Act* and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

As the application to set aside the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities has been dismissed and the Notice to End Tenancy complies with section 52 of the *Act*, I grant the Landlord a monetary Order, pursuant to section 55(1.1) of the *Act*, for unpaid rent, in the amount of \$3,000.00.

As the Landlord is aware they cannot serve legal documents by text message, I find there is no need to issue an Order requiring the Landlord to comply with the *Act* regarding service of documents. Both parties are required to comply with sections 88 and 89 of the *Act* whenever legal documents are being served under the *Act*.

Based on the undisputed evidence, I find that the Landlord threatened to call the police if “strangers” went to the rental unit. The Landlord is hereby ordered to strictly comply with section 30(1) of the *Act*, which prevents a landlord from “unreasonably” restricting a tenant’s or a tenant’s guest access to the residential property.

I find that the Tenant’s Application for Dispute Resolution is largely without merit. I therefore dismiss the Tenant’s application to recover the fee paid to file the Application for Dispute Resolution.

Conclusion

The Landlord’s Application for Dispute Resolution is dismissed, without leave to reapply.

For the duration of the tenancy, the Landlord must strictly comply with section 30(1) of the *Act*, which prevents a landlord from “unreasonably” restricting a tenant’s, or a tenant’s guest, access to the residential property.

I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on March 31, 2025. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord is granted a monetary Order for \$3,000.00. In the event the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that 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: March 24, 2025

Residential Tenancy Branch