DECISION

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution (Application) and amendment to the Application (Amendment) under the *Residential Tenancy Act* (the Act) for:

- cancellation of the landlords 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice) and an extension of the time limit to dispute the 10 Day Notice under sections 46 and 66 of the Act;
- a Monetary Order for the cost of emergency repairs to the rental unit under sections 33 and 67 of the Act; and
- a Monetary Order for compensation for damage or loss under the Act, regulation, or tenancy agreement under section 67 of the Act

This hearing also dealt with the landlords' Application under the Act for:

- An Order of Possession under section 55 of the Act in relation to the 10 Day Notice;
- Recovery of unpaid rent under sections 7, 26, and 67 of the Act; and
- Recovery of the filing fee paid for this Application from the Tenants under section 72 of the Act.

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

The Agents acknowledged receipt of the tenants' Application, Amendment, and evidence and raised no service concerns. I therefore found the landlords sufficiently served with these things for the purposes of the Act.

Although the Agents stated that the landlords' Proceeding Package was sent to each of the tenants individually at the rental unit address by registered mail on March 19, 2025, the tenants denied receipt. Canada post tracking information for the package sent to J.J. shows that it was sent on March 19, 2025, that a first notice was left on March 24, 2025, and that a final notice was left on April 1, 2024. Canada post tracking information for the package sent to I.S. shows that it was sent on March 19, 2025, that a first notice was left on March 24, 2025, and that a final notice was left on April 2, 2024. Neither package has been delivered or picked up.

The Agents stated that two registered mail packages containing another copy of the landlords' Proceeding Package as well as the landlords' evidence were sent again on March 25, 2025. Canada post tracking information for the packages shows that they were sent on March 25, 2025, that a first notice was left on March 28, 2025, and that a final notice was left on April 7, 2024. Again, neither package has been delivered or picked up.

I asked the tenants why they had not picked up the registered mail. J.J. stated that they did not know about the notice cards as they have not checked their mail recently. I.S. stated that they also did not know about the registered mail as they have been living temporarily in a subsidized safe house since March 1, 2025. When asked, they acknowledged that they did not advise the landlords that they had vacated the rental unit or provide them with a different address, as the safe house address is confidential.

As set out in Residential Tenancy Policy Guideline (Guideline) 12, the refusal of a party to accept or pick up registered mail does not override the deemed service provisions of the Act. Section 90(a) of the Act states that unless earlier received, things sent by registered mail are deemed received five days after they are sent. Under sections 88 and 89(1) of the Act, sending things by registered mail to the address at which the person resides is a valid method of service.

As J.J. continues to reside in the rental unit, I find the rental unit address constitutes a valid address for service for them under the Act. I therefore deem J.J. served with the landlords' Proceeding Package on March 24, 2025, five days after it was originally sent by registered mail. I also deem them served with the documentary evidence before me from the landlords, as well as a duplicate copy of the Proceeding Package on March 30, 2025, five days after they were sent by registered mail. Their failure to check their mail is not a lawful excuse under the Act for failing to pick up the registered mail properly sent to them by the landlords.

Pursuant to sections 71(2)(b) and 71(2)(c) of the Act, I also find the tenant I.S. sufficiently served with these things for the purposes of the Act and Residential Tenancy Branch Rules of Procedure (Rules). Although I.S. was temporarily residing elsewhere at the time, they did not advise the landlords of this or provide them with an alternative address for service. J.J. and I.S. are also still in a spousal relationship, and J.J. has continued to reside in the rental unit. As a result, I find it reasonable to expect that J.J. would be checking their mailbox and keeping I.S. appraised of any mail received. Further to this. The tenant's filed their Application first, and their address for service in their own Proceeding Package is the rental unit address. As a result, I therefore deem I.S. served with the landlords' Proceeding Package and evidence at the same time as J.J.

Based on the above, I therefore accepted all the documentary evidence before me from the parties for consideration, and the hearing of both Applications proceeded as scheduled.

Preliminary Matters

At the time the landlords filed their Application on March 15, 2025, the tenants owed only one month of outstanding rent for March of 2025. At the time of the hearing, the parties agreed that no rent had been paid for March or April of 2025. The landlords' claim for outstanding rent was therefore amended at the hearing under rule 7.12 of the Rules to include the additional rent owed since the time the Application was filed.

Issues to be Decided

Are the tenants entitled under section 66 of the Act to and extension of the time limit set out under section 46(4) of the Act?

Should the landlords' 10 Day Notice be cancelled? If not, are the landlords entitled to an Order of Possession?

Are the landlords entitled to recover unpaid rent? Are the tenants entitled to a rent reduction for emergency repairs completed and paid for under section 33 of the Act?

Are the tenants entitled to compensation for monetary loss or other money owed?

Are the landlords entitled to recovery of their filing fee?

Background and Evidence

The parties agreed at the hearing that $1,579.41 in rent is due under the tenancy agreement on the first day of each month. They also agreed that no rent has been paid by the tenants for February or March of 2025.

The Agents stated that as rent was not paid as required under the tenancy agreement, the 10 Day Notice was posted to the door of the rental unit on March 4, 2025. The tenant J.J. acknowledged receipt that same day and the tenants filed their Application seeking cancellation of the 10 Day Notice two days later, on March 6, 2025.

When asked, the tenants stated that they did not pay the rent as they do not have the funds. They stated that due to a bed bug infestation ongoing in the rental unit, the tenant I.S. and their children had to move out of the rental unit and into a safe house for women. They stated that they had to pay for I.S.'s moving costs, as well as to dispose of furniture due to the bed bugs.

Although the Agents acknowledged that there are bed bugs in another unit of the property, they stated that the rental unit has been inspected several times, and no evidence of bed bugs have been found by pest control. The Agents stated that the tenants have even been charged $211.00 for the last pest control inspection, because the tenants keep requesting pest inspections and no pests are being found.

Regardless, the Agents stated that the tenants are required to pay their rent in full each month under their tenancy agreement, have not done so, and do not have a right under the Act to deduct or withhold the rent. The tenants disagreed, stating that there is a bed bug infestation and that they should not be responsible for the $211.00 for the last pest control inspection. The tenants also sought recovery of the $211.00 under section 33 of the Act. They also argued that they should not owe rent as I.S. has had to move out and they have bed bugs.

The parties agreed that the tenants have not:

- overpaid a security deposit or pet damage deposit;
- overpaid rent due to an unlawful rent increase;
- received a notice to end tenancy for landlords' use of property that would entitle them to one month's free rent; or
- received an order from the Branch permitting the rent deduction or the withholding of rent.

Analysis

Are the tenants entitled to cancellation of the 10 Day Notice? If not, are the landlords entitled to an Order of Possession?

Section 46(1) of the Act states that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

Section 46(4) of the Act states that upon receipt of a One Month Notice the tenant may, within five days, dispute the notice by filing an Application with the Branch. If the tenant files an Application within this time period, the landlord bears the burden to prove the grounds for the 10 Day Notice.

I find that the tenants were served with the 10 Day Notice on March 4, 2025, the date they acknowledged receipt at the hearing. This is the same date it was served by the landlords. As the tenants disputed this notice on March 6, 2025, I find that they disputed it on time. I therefore find that conclusive presumption under section 46(5) of the Act does not apply and that the landlords have the burden to prove that they have sufficient grounds to end the tenancy via the 10 Day Notice. Further to this, I find it unnecessary to determine if the tenants are entitled to an extension under section 66 of the Act to the time limit set out under section 46(4) of the Act, even though the tenants sought such an extension in their Application.

Section 26 of the Act states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

There are six situations when a tenant may deduct money from the rent:

1. the tenant has at the time rent is withheld or deducted, an arbitrator's decision allowing the deduction;
2. the landlord illegally increases the rent, in which case the illegal rent increase amount may be withheld;
3. the landlord has overcharged for a security or pet damage deposit, in which case the tenant may deduct the amount overpaid from their rent;
4. the tenant has at the time rent is withheld or deducted, the landlord's written permission allowing the rent reduction;
5. the tenant was served with a notice to end tenancy by the landlord that includes related compensation by way of a rent reduction, such as a Two Month Notice to End Tenancy for Landlord's Use of Property; or
6. the landlord refuses the tenant's written request for reimbursement of emergency repairs completed and invoiced in accordance with section 33 of the Act.

The parties agreed at the hearing that $1,579.41 in rent is due on the first day of each month under the tenancy agreement. They also agreed that the first five reasons for lawfully deducting or withholding rent under the Act do not apply. Although the tenants argued that they had a right to deduct or withhold rent under section 33 of the Act, I disagree. There is no evidence before me that the tenants have completed any repairs that would qualify as emergency repairs under section 33 of the Act. There is also no evidence that they paid for any such repairs or properly invoiced the landlords as required under section 33 of the Act.

Based on the above, I find that the tenants owed the $1,579.41 in rent for March of 2025 set out on the 10 Day Notice at the time of its issuance. I also find that they failed to pay not only that rent within 5 days of receipt of the 10 Day Notice, but also the $1,579.41 owed for April of 2025. As of the date of the hearing on April 8, 2025, the tenants had not made any rent payments after the issuance of the 10 Day Notice.

As the tenants did not pay the rent owed, and did not have a right under the Act to deduct or withhold it, I find that the landlords therefore has grounds under section 46 of the Act to end the tenancy. I therefore dismiss the tenants' claim for its cancellation without leave to reapply.

As the 10 Day Notice complies with section 52 of the Act, I therefore grant the landlords an Order of Possession in relation to it under section 55(1) of the Act. As the effective date of the 10 Day Notice, March 15, 2025, has passed, pursuant to sections 55(1) and 68(2)(a) of the Act, I therefore grant the landlords an Order of Possession effective at **1:00 PM seven (7) days after service of the Order on the tenants**.

Despite the above, I find that the landlords are not entitled to charge the tenants back for the $211.00 in pest control. Although the tenants did not complete and pay for this, and therefore they are not entitled to deduct or withhold rent for this purpose under section 33 of the Act, landlords are generally responsible for pest control. The Agents

also acknowledged that there is at least one other rental unit with bed bugs in the property and the tenants were not warned before this pest control visit that they would be charged for it. If the tenants have paid this already, it MUST be deducted from any outstanding rent amounts owed by the tenants to the landlords as set out below. If not, the landlords may not seek recovery of this amount from the tenants.

Are the landlords entitled to recover unpaid rent?

As set out above, I am satisfied that the tenants owe $1,579.41 in rent on the first day of each month under their tenancy agreement. I am also satisfied that they have not paid the rent owed for February or March of 2025 and do not have a lawful reason under the Act to have withheld it. As a result, I grant the landlords recovery of the $3,158.82 sought in unpaid March and April rent under sections 7, 26, and 67 of the Act. The tenants are therefore ordered to pay this amount to the landlords.

Are the tenants' entitled to compensation for Monetary Loss or other money owed?

Section 7 of the Act states that if a landlord or tenant does not comply with the Act, regulations, or their tenancy agreement, the non-complying party must compensate the other party for any damage or loss that results. It also states that the party claiming the loss must do whatever is reasonable to minimize the damage or loss.

Section 32(1) of the Act states that a landlord must provide and maintain residential property in a state of decoration and repair that:

a) complies with the health, safety and housing standards required by law; and
b) having regard to the age, character, and location of the rental unit, makes it suitable for occupation by a tenant.

The tenants sought $3,834.36 in compensation for items they stated had to be disposed of due to a bed bug infestation. However, they have failed to satisfy me that the landlords are responsible for these costs. Although the Agents acknowledged that another unit in the building has or had bed bugs, they argued that the tenant's rental unit does not. In support of this, they submitted pest control reports showing that the rental unit has been inspected on three separate occasions and that on every occasion, no bed bug activity has been found. While the tenants disagreed, and submitted photographs of alleged bed bug bites and bed bugs, I do not find this evidence more persuasive than the pest control reports. I am not a pest control expert and cannot tell from the photographs submitted whether the bugs shown are in fact bed bugs. Further to this, I cannot determine if the bites shown in the photographs were obtained while in the rental unit, and if so, from what.

As a result of the above, I am not satisfied that there are in fact bed bugs in the rental unit, and if so, that the landlords are the cause. Further to this, I am satisfied that the landlords have been acting diligently regarding the tenant's complaints, as they have had the rental unit inspected on three occasions, despite each inspection showing no

bed bug activity. As a result of the above, the tenants have failed to satisfy me that the costs sought are a result of the landlords' breach of the Act, whether that be section 32(1) of the Act, or another section. As a result, I dismiss this claim without leave to reapply.

Are the landlords entitled to recover the filing fee for this Application from the tenants?

Recovery of the filing fee is at my discretion under section 72(1) of the Act. As the landlords were successful in their Application, I grant them recovery of the $100.00 filing fee paid for this Application from the tenants under section 72(1) of the Act. I therefore order the tenants to pay this amount to the landlord.

Conclusion

Pursuant to section 67 of the Act, I grant the landlords a Monetary Order in the amount of **$11,313.00** under the following terms:

Monetary Issue	Granted Amount
Recovery of unpaid rent	$3,158.82
Recovery of the filing fee for this Application	$100.00
Total Amount	**$3,258.82**

The landlords are provided with this Order in the above terms and the tenants must be served with **this Order** by the landlords as soon as possible. Should the tenants fail to comply with this Order, it may be filed and enforced in the Provincial Court of British Columbia (Small Claims Court) as it is equal to or less than $35,000.00. The landlords may serve this Order by email as set out in the tenancy agreement and the order for substituted service dated February 19, 2025.

Pursuant to sections 55(1) and 68(2)(a) of the Act, I grant an Order of Possession to the landlords **effective by 1:00 PM seven (7) days after service of this Order on the tenants**. The landlords are provided with this Order in the above terms, and a copy of this Order must be served on the tenants by the landlords as soon as possible. Should the tenants or anyone on the premises fail to comply with this Order, it may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 57(2) of the Act, a landlord must not take actual possession of a rental unit that is occupied by an overholding tenant unless the landlord has a writ of possession issued under the Supreme Court Civil Rules.

Pursuant to sections 57(3) of the Act, a landlord may claim compensation from an overholding tenant for any period that the overholding tenant occupies the rental unit

after the tenancy is ended, or for any loss suffered by a new tenant if their occupancy of the rental unit is prevented or delayed due to the overholding.

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: May 6, 2025

Residential Tenancy Branch