



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

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DECISION

Introduction

The Tenants sought an order cancelling a *10 Day Notice to End Tenancy for Unpaid Rent* (the “Notice”) pursuant to section 46(4)(b) of the *Residential Tenancy Act* (the “Act”). By way of cross-application the Landlord sought an order of possession based on the Notice and a monetary order for unpaid rent and utilities, pursuant to sections 46 and 55 of the Act. In addition, the Landlord sought to recover the cost of the application fee.

A dispute resolution hearing was held by teleconference on Friday, May 16, 2025. The hearing began at 9:30 AM and the Landlord and her son (who acted as interpreter) attended the hearing. The Tenants did not attend the hearing, which ended at 9:44 AM. Because the Tenants failed to attend the hearing, I dismiss the Tenants’ application and will only be considering the Landlords’ application.

Issues

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to a monetary order for unpaid rent and utilities?
3. Is the Landlord entitled to recover the cost of the application fee?

Background and Evidence

In reaching this decision, I have considered all relevant evidence that complied with the *Rules of Procedure*. Only the necessary oral and documentary evidence that helped resolve the issues of the dispute and explain the decision is included below. I affirmed the Landlord on the record before hearing her testimony and confirming evidence.

In this tenancy the monthly rent was, as of April 1, 2025, \$2,639.00. As of May 1, the rent increased to \$2,718.00. Rent is due on the first day of the month. There is a \$1,250.00 security deposit. The Landlord submitted a copy of a written tenancy agreement into evidence.

The Landlord served the Notice on April 7, 2025, by Canada Post registered mail. All three pages of the Notice were given to the Tenants, and a copy of the Notice was submitted into evidence by the Landlord. The Notice was served because the Tenants did not pay outstanding rent in the amount of \$5,317.00 and unpaid utilities in the amount of \$241.31, both of which were due and payable as of April 1, 2025.

The Landlord testified that as of May 16, 2025, the Tenants owe rent arrears and utilities in the amount of \$5,507.21.

Analysis

Section 26 of the Act requires tenants to pay rent on time unless they have a legal right to withhold some of the rent. Section 46(1) of the Act allows landlords to end a tenancy if the tenant does not pay rent on time by issuing a *10 Day Notice to End Tenancy for Unpaid Rent*.

The Landlord's evidence persuades me to find that the Tenants did not pay rent and utilities that were due and owing as of April 1, 2025. There is no information or evidence before me to find that the Tenants had a legal right under the Act not to pay the rent.

Therefore, for these reasons and based on the affirmed and undisputed evidence of the Landlord, I find on a balance of probabilities that the Notice was given for a valid reason, namely, the non-payment of rent. I also find that the Notice complies with the form and content requirements of section 52.

Based on the above findings, the Landlord is granted an order of possession under section 55(1) of the Act. A copy of the order of possession is attached to this Decision and must be immediately given to the Tenants. The Tenants have seven (7) days to vacate the rental unit from the date of service or deemed service of the order. The order of possession may be filed and enforced in the Supreme Court of British Columbia.

Since the application relates to a section 46 notice to end tenancy, the Landlord is entitled to an order for unpaid rent under section 55(1.1) of the Act. Therefore, the Tenants are, pursuant to section 55(1.1) and section 67 of the Act ordered to pay \$5,507.21 in unpaid rent and utilities to the Landlord.

The Landlord is awarded \$100.00 under section 72 of the Act as recovery of the cost of the application fee. In total, the Landlord is therefore awarded \$5,607.21.

Under section 38(4)(b) of the Act, the Landlord is authorized to retain the full amount of the \$1,250.00 security deposit in partial satisfaction of the amount owing. A monetary order for the remaining \$4,357.21 is attached to this Decision and must also be given by the Landlord to the Tenants. The monetary order may be filed and enforced in the Provincial Court of British Columbia (Small Claims Court).

The Tenant's claim to recover the cost of the application fee is dismissed.

Conclusion

IT IS HEREBY ORDERED THAT:

1. The Tenants' application is dismissed without leave to reapply.
2. The Landlord's application is granted.
3. The Landlord is granted an order of possession with an effective date of seven (7) days from the date of service.
4. The Landlord is:
 - a. awarded compensation in the amount of \$5,607.21.
 - b. authorized to retain the \$1,250.00 security deposit.
 - c. granted a monetary order in the amount of \$4,357.21.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: May 16, 2025

Residential Tenancy Branch