



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNR, AS, ERP, FFL, MNR, OPR

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

The landlords requested:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

The tenant requested:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order allowing the tenant to assign or sublet because the landlord's permission has been unreasonably withheld pursuant to section 65; and

While the landlords attended the hearing by way of conference call, the tenants did not. The tenants filed their application in response to the landlord filing an application through the Direct Request Process. As the tenants filed the application to initiate a participatory hearing, I am satisfied that they were aware of today's hearing, accordingly; I proceeded and completed the hearing in the tenant's absence. The landlords were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

As the tenants chose not to dial into today's teleconference, I hereby dismiss their application in its entirety without leave to reapply.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession based on the 10 Day Notice?
Are the landlords entitled to a monetary award for unpaid rent or money owed under the tenancy agreement, regulation, or *Act*?
Are the landlords entitled to recover the filing fee for this application?

Background and Evidence

The landlord gave undisputed testimony regarding the following facts. This one year fixed-term tenancy began on August 1, 2017, with monthly rent set at \$1600.00, payable on the first of each month. The landlord collected, and still holds, a security deposit of \$800.00. The tenants continue to reside in the rental unit.

The landlord issued the 10 Day Notice on December 2, 2017 to the tenant for unpaid rent for December 2017. The tenants have failed to also pay for January 2018 and February 2018. The landlord advised that as of today the amount of unpaid rent is \$4800.00.

Analysis

Section 55(1) of the *Act* reads as follows:

55 (1) 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

(a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

In the absence of any evidence or submissions from the tenant, I order the tenant's application dismissed without liberty to reapply. I find that the 10 Day Notice complies with section 52 of the *Act*.

Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that the landlord is entitled to an order of possession.

The landlords continue to hold the tenant's security deposit in the amount of \$800.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain the tenant's security deposit in partial satisfaction of the monetary claim.

I find that the landlords are entitled to recovery the \$100.00 filing fee from the tenant.

Conclusion

As the tenants did not attend this hearing, their entire application is dismissed without leave to reapply.

I grant an Order of Possession to the landlords effective **two (2) days after service on the tenants**. 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 issue a \$4100.00 Monetary Order in favour of the landlords under the following terms, which allows the landlords to recover unpaid rent and the filing fee, and also allows the landlords to retain the tenant's security deposit:

Item	Amount
Unpaid Rent for December 2017	\$1600.00
Unpaid Rent for January 2018	1600.00
Unpaid Rent for February 2018	1600.00
Recovery of Filing Fee	100.00
Less Security Deposit	-800.00
Total Monetary Order	\$4100.00

The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 *Residential Tenancy Act*.

Dated: February 22, 2018

Residential Tenancy Branch