



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SPRING GARDEN INVESTMENTS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

Tenant: CNR, DRI, PSF, AS, FFT
Landlord: OPR, MNRL-S MNDC FFL

Introduction

This hearing was convened in response to cross applications by both parties pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows. The tenant made application October 10, 2018 to/for:

1. Cancel a Notice to End for Unpaid rent - Section 46
2. Dispute an additional rent increase- Section 43
3. Provide services or facilities agreed to – Section 65
4. Assign or sublet rental unit – Section 65(1)

The landlord made application October 26, 2018 to/for:

1. An Order of Possession - Section 55
2. A Monetary Order for unpaid rent / loss – Section 67
3. An Order to recover the filing fee for this application - Section 72

The applicant tenant was provided with a copy of the Notice of a Dispute Resolution Hearing dated October 11, 2018 after filing their application to dispute the landlord's Notice to End. The tenant, however, did not attend the hearing set for today at 11:00 a.m. The phone line remained open for the duration of the hearing and was monitored throughout the entire time. The only party to call into the hearing was the landlord's representative. The landlord testified the tenant still resides in the unit.

I accept the landlord's evidence the tenant was served with the landlord's application for dispute resolution and notice of hearing as well as their evidence by registered mail. In the absence of the tenant the landlord was given opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the landlord's Notice to End valid?
Is the landlord entitled to an Order of Possession?
Is the landlord entitled to a Monetary Order?

Background and Evidence

Within the tenancy agreement rent in the amount of \$2700.00 is payable in advance on the first day of each month. The landlord holds the security deposit of \$1350.00 in trust.

The landlord testified that the *outgoing* landlord of the rental unit had provide the applicant landlord with \$1000.00 comprised of credits of \$500.00 per month for the months of October and November 2018, thus allowing the payable rent to be \$2200.00 for each of the 2 months. The landlord testified the tenant failed to pay the affected reduced rent of \$2200.00 in the month of October 2018 and on October 05, 2018 the landlord served the tenant with a 10 Day Notice to End tenancy for non-payment of rent by sending it registered mail and received by the tenant. The tenant filed application to dispute the Notice but did not pay the arrears within the prescribed time to do so, nor subsequently have paid any rent since receiving the Notice. The tenant applied to dispute the Notice to End of this matter but did not attend the hearing.

Analysis

The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: www.gov.bc.ca/landlordtenant.

Based on the landlord's evidence I find that the tenant was served with Notice to End tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and despite applying for Dispute Resolution to dispute the notices they have not attended their own hearing and as a result their application is **dismissed**, without leave to reapply.

I find the landlord's 10 Day Notice to End complies with the form and content required by **Section 52** of the Act. Further, in this type of matter, **Section 55(1)** of the Act prescribes that if I dismiss the tenant's application or uphold the landlord's Notice to End I *must* grant the landlord an Order of Possession. As a result of all the above I find the landlord is entitled to an **Order of Possession**.

I also find that the landlord has established a monetary claim for unpaid rent. The landlord is also entitled to recovery of their filing fee. The security deposit will be off-set from the monetary award made herein as follows.

Calculation for Monetary Order

Unpaid rent / Rental arrears – October & November 2018 (\$2200.00 each month)	\$4400.00
Filing fee for the cost of this application	100.00
<i>Less Security Deposit held in trust</i>	<i>-1350.00</i>
Monetary Award to landlord	\$3150.00

Conclusion

The tenant's application is dismissed, without leave to reapply. The landlord's application is granted.

I grant an Order of Possession to the landlord **effective 2 days from the day it is served on the tenant**. The tenant must be served with this Order of Possession. Should the tenant fail to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I Order that the landlord may retain the tenant's security deposit in the amount of \$1350.00 in partial satisfaction of their award, and I grant the landlord an Order under Section 67 of the Act for the balance of **\$3150.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding.

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: November 20, 2018

Residential Tenancy Branch