



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNR, CNR, MNSD, MNDC, FF*

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for a monetary order for unpaid rent, unpaid utilities and for the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the monetary claim. The tenant applied for an order to cancel a notice to end tenancy for unpaid rent.

The notice of hearing was served on the tenant on June 28, 2019 by registered mail to the address of the rental unit. The landlord provided a tracking number. Despite having been served the notice of hearing and having made application for dispute resolution, the tenant did not attend the hearing and therefore the tenant's application is dismissed. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee?

Background and Evidence

The tenancy started in February 2019. The monthly rent is \$1,150.00 due on the first of each month and does not include utilities. Prior to moving in the tenant paid a security deposit of \$575.00

The landlord testified that the tenant failed to pay rent for June 2019 and failed to pay utilities from the start of tenancy.

On June 25, 2019; the landlord served the tenant with a ten day notice to end tenancy for \$1,150.00 in unpaid rent plus \$279.83 in unpaid utilities. The landlord filed copies of communication between the parties by text message. The messages indicate that the tenant was reminded multiple times to pay utilities and to pay rent on time.

The tenant disputed the notice in a timely manner and continued to occupy the rental unit without paying rent or utilities. At the time of the hearing the tenant owed the landlord rent for June and July 2019 plus \$296.06 2015 for unpaid utilities for a total of \$2,596.06.

The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$2,596.06 for unpaid rent plus unpaid utilities. The landlord is also applying for \$100.00 for the filing fee and to retain the security deposit of \$575.00 in partial satisfaction of the monetary claim.

Analysis

Since the tenant did not call into the conference call, her application is dismissed without leave to reapply. Accordingly, the notice to end tenancy is upheld. The effective date of the notice is June 21, 2019.

Section 55 of the *Residential Tenancy Act* addresses an order of possession for the landlord and states:

Order of possession for the landlord

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 this case, I find that the landlord served the tenant with a notice to end tenancy that complies with section 52 (form and content of notice to end tenancy).

Since the tenant did not attend the hearing, I have dismissed the tenant's application for dispute resolution and have upheld the notices to end tenancy.

Under the provisions of section 55, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenant must be served with the 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.

Based on the undisputed sworn testimony of the landlord and in the absence of evidence to the contrary, I accept the landlord's evidence in respect of the claim. I find that the landlord is entitled to \$2,300.00 for unpaid rent plus \$296.06 for unpaid utilities. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$100.00.

Overall the landlord has established a claim of \$2,696.06. I order that the landlord retain the security deposit of \$575.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$2,121.06. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession effective **two days after service** on the tenant and a monetary order in the amount of **\$2,121.06**.

The tenant's application is dismissed.

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: July 29, 2019

Residential Tenancy Branch