



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities.

The Tenant did not attend the hearing in support of the Application for Dispute Resolution.

The Landlord stated that the Tenant's Dispute Resolution Package was posted on the Landlord's door several months ago.

On January 23, 2023 the Landlord submitted evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was served to the Tenant, by posting it on the door of the rental unit, on January 23, 2023. As these documents were not served in accordance with the timelines established by the Residential Tenancy Branch Rules of Procedure, I decline to accept them as evidence for these proceedings.

On September 12, 2022 the Tenant submitted a copy of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities. The Landlord stated that this document was not served to the Landlord with the Dispute Resolution Package, however she has a copy of that document. As the Landlord has a copy of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities and it was submitted to the Residential Tenancy Branch by the Tenant, I accept this document as evidence for these proceedings.

The Landlord was given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The Landlord affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The Landlord was advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. The Landlord affirmed they would not record any portion of these proceedings.

Issue(s) to be Decided

Should the Notice to End Tenancy for Unpaid Rent be set aside?

Background and Evidence

The Landlord stated that:

- the Tenant agreed to pay rent of \$1,965.00 by the first day of each month;
- rent was increased to \$1,994.47, effective December 01, 2022;
- no rent has been paid for any period after September 01, 2022; and
- the Tenant is still living in the rental unit.

The Landlord stated that the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities that is the subject of these proceedings was posted on the door of the rental unit on September 06, 2022 and that it declares the rental unit must be vacated by September 19, 2022.

Analysis

On the basis of the undisputed evidence, I find that the Tenant was required to pay rent of \$1,965.00 by the first day of each month; that rent was increased to \$1,994.47, effective December 01, 2022; and that no rent has been paid for any period after September 01, 2022.

Section 46(1) of the *Act* stipulates 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. As the Tenant have not paid the rent that was due on September 01, 2022, I find that the

Landlord had the right to serve this Ten Day Notice to End Tenancy for Unpaid Rent or Utilities.

As the Tenant did not attend the hearing in support of the Application for Dispute Resolution, I find that the Tenant did not diligently pursue the Application for Dispute Resolution and I dismiss it, without leave to reapply.

Section 55(1) of the *Act* stipulates that 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 the landlord's notice to end tenancy complies with section 52 of the *Act* and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

As the application to set aside the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities has been dismissed and the Notice to End Tenancy complies with section 52 of the *Act*, I grant the Landlord an Order of Possession, pursuant to section 55(1) of the *Act*.

I find that this tenancy ended on January 30, 2023, pursuant to section 44(1)(f) of the *Act*.

Section 55(1.1) of the *Act* stipulates that if tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities the director must grant to the landlord an order requiring the payment of the unpaid rent if the landlord's notice to end tenancy complies with section 52 of the *Act* and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

As the application to set aside the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities has been dismissed and the Notice to End Tenancy complies with section 52 of the *Act*, I also grant the Landlord a monetary Order for unpaid rent for the period between September 01, 2022 and November 30, 2022, in the amount of \$5,895.00; for unpaid rent for December of 2022, in the amount of \$1,994.47; and unpaid rent for 30 days in January, in the amount of \$1,930.13.

Conclusion

I grant the Landlord an Order of Possession that is effective on **two days after it is served upon the Tenant**. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$9,819.60, for unpaid rent and I grant the Landlord a monetary Order for that amount. In the event the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims 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: January 30, 2023

Residential Tenancy Branch