



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, CNC, MNDC, LRE, FF

Introduction, Preliminary and Procedural Matters –

This telephone conference call hearing was convened as the result of the tenants' application for dispute resolution seeking remedy under the Residential Tenancy Act (Act). The tenants applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) dated January 2, 2023, an order cancelling a One Month Notice to End Tenancy for Cause (1 Month Notice), compensation for a monetary loss or other money owed, an order suspending or setting conditions on the landlord's right to enter the rental unit, and recovery of the cost of the filing fee.

The hearing began as scheduled at 1:00 pm Pacific Time on Tuesday, April 4, 2023, and the telephone system remained open and was monitored for 12 minutes.

During this time, the applicants/tenants did not dial into the telephone conference call hearing; however, the landlords were present. The landlords were affirmed and provided their testimony.

Rules 7.3 and 7.4 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.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of any evidence or submissions from the tenants at the hearing, **I order the tenants' application dismissed, without leave to reapply.**

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Are the landlords entitled to a monetary order consisting of unpaid monthly rent?

Background and Evidence

The undisputed evidence is that the tenants were served a 10 Day Notice on or about January 2, 2023, listing unpaid rent of \$2,537.00. The tenants, in their application, said the Notice was received on January 6, 2023, attached to the door.

The landlords proceeded under the direct request process in their own application for dispute resolution and were granted an order of possession of the rental unit and a monetary order for the January 2023 rent.

The tenants failed to vacate, and were eventually removed from the rental unit by a bailiff on March 16, 2023, according to the landlords. The tenants failed to pay the monthly rent for February and March 2023, leaving an unpaid rent deficiency of \$5,074, according to the landlords.

Filed in evidence was the 10 Day Notice.

Despite being removed from the rental unit, the tenants did not cancel the hearing or withdraw their application.

Analysis and Conclusion

I find that the landlords submitted sufficient, undisputed evidence to show that the tenants owed and did not pay the monthly rent owed for February and March 2023, as they remained in the rental unit despite the landlord's order of possession. I find the tenants owe a total amount of unpaid rent of \$5,074 through the date of the hearing.

Section 55(1.1) of the Act applies and states:

55(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [*landlord's notice: non-payment of rent*], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

For this reason, I order the tenants to pay the landlords the amount of \$5,074, which is the total amount of unpaid monthly owing as of the date the tenants were removed by the bailiff on March 16, 2023 and grant them a monetary order in that amount.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenants are **cautioned** that costs of such enforcement are recoverable from the tenants.

Conclusion

The tenants' application is dismissed without leave to reapply as they failed to attend the hearing to provide evidence.

Due to the dismissal of the tenants' application for dispute resolution, the landlords are granted a monetary order in the amount of \$5,074.

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: April 04, 2023

Residential Tenancy Branch