



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes Tenant: CNR MT PSF
Landlord: OPR MNR FF

Introduction

This hearing was convened as a result of a cross-Application for Dispute Resolution. Both parties applied for multiple remedies, including to cancel a 10 Day Notice for Unpaid Rent or Utilities, pursuant to the *Residential Tenancy Act* (the “Act”).

The Landlord (respondent) attended the hearing and provided affirmed testimony. However, the Tenant (applicant) did not. The hearing was by telephone conference and began promptly, as scheduled, at 9:30 AM Pacific Time on June 8, 2023, as per the Notice of a Dispute Resolution Hearing provided to the Tenant. The line remained open while the phone system was monitored for 10 minutes and the only participant who called into the hearing during this time was the respondent Landlord who was ready to proceed. The Landlord stated that although the Tenant has been largely absent from the rental unit he still has several possessions left behind in the rental unit (Sea-do, tires, other belongings). The Landlord stated that the Tenant is hard to get a hold of, but he continues to pay not pay any rent that is owed.

After the ten minute waiting period, the Tenant’s application was **dismissed in full, without leave to reapply**.

Section 55 of the *Act* applies 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.

(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.

[My emphasis added]

Under section 55 of the *Act*, when a Tenant's application to cancel a notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52, I must grant the Landlord an order of possession. Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I find the 10 Day Notice issued on April 2, 2023, complies with section 52 of the *Act*, in terms of the form and content requirements. As such, I find the Landlord is entitled to an order of possession, pursuant to section 55 of the *Act*. This order will be effective 2 days after it is served on the Tenant.

Next, I turn to section 55 (1.1) of the *Act*, which specifies that I must grant a monetary order for outstanding unpaid rent, provided a valid 10 Day Notice was issued, and if the Tenant's application to cancel the 10 Day Notice is dismissed.

The Landlord testified that the Tenant has not paid any rent for April, May, or June 2023. The Landlord testified that monthly rent is \$1,000.00 and is due on the first of the month. I find the Landlord is entitled to a monetary order for these months, as they remain unpaid. The Landlord is entitled to a monetary order of \$3,000.00.

Pursuant to section 72 of the *Act*, I also find the Landlord is entitled to recover the filing fee they paid, \$100.00.

Conclusion

Pursuant to section 55 of the Act, the Landlord is granted an order of possession effective **two days after service** on the Tenant. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

The Landlord is granted a monetary order pursuant to Section 67 in the amount of **\$3,100.00**. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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: June 09, 2023

Residential Tenancy Branch