



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

This hearing dealt with the following applications under the Residential Tenancy Act (the Act).

The Tenant's applications:

- to dispute a 10 Day Notice to End Tenancy For Unpaid Rent (the 10 Day Notice);
- to dispute a One Month Notice To End Tenancy For Cause (the One Month Notice);
- to request the Landlord to comply with the Act; and
- to recover their filing fee under section 72 of the Act.

The Landlord's applications:

- for an Order of Possession pursuant to a One Month Notice under section 47 of the Act and pursuant to a 10 Day Notice under section 46 of the Act;
- for a Monetary Order for unpaid rent and lost revenue under section 67 of the Act;
- for authorization to retain the Tenant's security deposit; and
- to recover their filing fee under section 72 of the Act.

Issues to be Decided

Is the Tenant entitled to any orders or their filing fee?

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Is the Landlord entitled to their filing fee?

Facts and Analysis

The tenancy began on January 19, 2022, with rent of \$3,800.00 due on the first of each month, and a security deposit of \$1,900.00, which has accrued interest of \$23.77 since January 1, 2023, totalling \$1,923.77.

The Landlord issued a 10 Day Notice on June 15, 2023, for \$8,150.00 in unpaid rent due on June 1, 2023. The Tenant accepted service of this 10 Day Notice by registered mail on June 19, 2023.

Section 26 of the Act requires a Tenant to pay rent to the Landlord, regardless of whether the Landlord complies with the Act, regulations or tenancy agreement, unless the Tenant has a right to deduct all or a portion of rent under the Act.

Although the Tenant disputed the 10 Day Notice in time, they admit they have not paid rent, and they have not established a legal reason for withholding rent. Therefore, the Tenant's application is dismissed in its entirety without leave to reapply.

The 10 Day Notice complies with section 52 of the Act. Therefore, I grant the Landlord an Order of Possession pursuant to sections 46 and 55 of the Act.

The Tenant says they need more time to vacate the rental unit because of their financial situation, and that they are awaiting the results of other litigation that does not involve the Landlord. I accept the Tenant needs more time; however, I also note that four months have passed since the Tenant last paid rent. To balance the interests of both parties, I will allow five days for the Tenant to vacate the rental unit after they are served with the Order of Possession.

The Landlord indicated the last payment they received from the Tenant was on May 31, 2023, for partial rent for April 2023. It is undisputed that the Tenant owes \$550.00 rent for April 2023. The Tenant also agrees that they have not paid the monthly rent of \$3,800.00 for May, June, July, or August 2023, totalling \$15,200.00.

Pursuant to section 4.2 of the Rules of Procedure and section 64 of the Act, I amend the Landlord's monetary claim for unpaid rent to \$15,750.00. The increase in the Landlord's claim for unpaid rent is reasonably anticipated given the monthly rent listed in the tenancy agreement and the time that has passed since the 10 Day Notice was served.

I order that the Landlord retain the security deposit plus interest in the amount of \$1,923.77 in partial satisfaction of their claim. I grant the Landlord a monetary order for the balance due of \$13,826.23 under section 67 of the Act.

I dismiss the portion of the Landlord's claim requesting lost revenue for July to September 2023, without leave to reapply, because it has already been addressed as unpaid rent, and rent for September is not owing at the time of this hearing.

As the Landlord was successful in the majority of their application, I grant their \$100.00 filing fee.

Conclusion

The Tenant's application is dismissed in its entirety without leave to reapply.

I grant the Landlord an Order of Possession effective five (5) days after service of this Order on the Tenant. Should the Tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to sections 67 and 72 of the Act, I grant the Landlord a Monetary Order in the amount of \$13,926.23 for rent owing from April 2023 to August 2023 and for the recovery of their filing fee for this application. The Landlord is provided with this Order on the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, it may be filed in the Small Claims Division of the Provincial 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: August 22, 2023

Residential Tenancy Branch