

## **DECISION**

### **Introduction**

This hearing dealt with the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) under sections 46 and 55 of the Act
- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act

This hearing also dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- an order of possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice), under sections 46 and 55 of the Act
- a monetary order for unpaid rent under section 55 of the Act
- authorization to recover the filing fee paid for this application under section 72 of the Act

### **Preliminary Matters**

The Tenant did not attend at the appointed time set for the hearing, although I waited until 11:33 AM to enable them to participate in this hearing scheduled for 11:00 AM. I confirmed that the correct call-in number and participant code had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed on the teleconference system that the Landlord and I were the only people who had called into this hearing.

In the absence of the Tenant under Rule 7.1 and 7.3 of the Rules of Procedure, I order the Tenant's application dismissed, without leave to reapply.

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and evidence**

I find that Tenant J.H. was served on March 13, 2024, by registered mail in accordance with section 89(1) of the Act and is deemed served the fifth day after the registered mailing in accordance with section 90 of the Act. The Landlord provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this service. I have included the Canada Post tracking number on the cover page.

## **Issues to be Decided**

Is the Landlord entitled to an Order of Possession based on the 10 Day Notice?

Is the Landlord entitled to a Monetary Order for unpaid rent?

Is the Landlord entitled to recover the filing fee for this application from the Tenant?

## **Background and Evidence**

I have reviewed all evidence, including the testimony of the Landlord, but will refer only to what I find relevant for my decision.

The Landlord testified that this tenancy began on February 1, 2024, with a current monthly rent of \$1,000.00. The Tenant paid a security deposit of \$500.00.

The Landlord testified that the Tenant failed to pay all of March 2024, and April 2024 rent, for a total of \$2,000.00.

The Tenant provided on their application that the 10 Day Notice dated March 5, 2024, was served to them in person on March 5, 2024.

The 10 Day Notice was entered into evidence by the Landlord for unpaid rent in the amount of \$1,000.00 due on March 1, 2024. Signed and dated March 5, 2024, with an effective date of March 15, 2024.

## **Analysis**

### **Is the Landlord entitled to an Order of Possession based on the 10 Day Notice?**

Section 46 of the Act states that upon receipt of a 10 Day Notice the Tenant must, within five days, either pay the full amount of the arrears as indicated on the 10 Day Notice or dispute the 10 Day Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the Tenant does not pay the arrears or dispute the 10 Day Notice they are conclusively presumed to have accepted the end of the tenancy under section 46(5).

The Landlord had a valid reason to issue the Tenant a notice to end the tenancy for unpaid rent. The 10 Day Notice has been filled out accurately and given to the Tenant.

The Tenant had until March 10, 2024, to pay the outstanding rent. As the Tenant did not pay the outstanding rent, they are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended March 15, 2024.

Therefore, I find that the Landlord is entitled to an Order of Possession based on a 10 Day Notice under sections 46 and 55 of the Act.

**Is the Landlord entitled to a Monetary Order for unpaid rent?**

Section 26 of the Act states that a Tenant must 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.

Therefore, I find the Landlord is entitled to a Monetary Order for unpaid rent under section 55 of the Act, in the amount of \$2,000.00.

**Is the Landlord entitled to recover the filing fee for this application from the Tenant?**

As the Landlord was successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

**Conclusion**

I grant an Order of Possession to the Landlord **effective seven (7) days after service of the 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.

I grant the Landlord a Monetary Order in the amount of **\$1,600.00** under the following:

Monetary Issue	Granted Amount
a Monetary Order for unpaid rent under section 55 of the Act	\$2,000.00
authorization to recover the filing fee for this application from the Tenant under section 72 of the Act	\$100.00
authorization to retain all of the Tenant's security deposit under section 72 of the Act	-\$500.00
<b>Total Amount</b>	<b>\$1,600.00</b>

The Landlord is provided with this Order in 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, this Order 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 Act.

Dated: April 16, 2024

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Residential Tenancy Branch