



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord was represented by its agents: MB, the portfolio manager, and AM, the building manager.

The landlord testified that AM personally served the tenant with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) on 14 October 2014. The tenant acknowledged receipt of the 10 Day Notice. On the basis of this evidence, I am satisfied that the tenant was served with the 10 Day Notice pursuant to section 88 of the Act.

The landlord testified that MB personally served the tenant with the dispute resolution package, including all documentary evidence before me, on 5 November 2014. The tenant acknowledged receipt of the dispute resolution package. On the basis of this evidence, I am satisfied that the tenant was served with notice of this application pursuant to section 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

The tenancy began on 15 August 2014. Monthly rent of \$536.00 was due on the first.

On 14 October 2014, the landlord issued the 10 Day Notice. The 10 Day Notice set out that the tenant had failed to pay rent due 1 October 2014 in the amount of \$536.00. The 10 Day Notice had an effective date of 24 October 2014. The tenant did not pay her rent or apply to dispute the 10 Day Notice.

The landlord testified that the tenant is still occupying the unit and that she has not paid any rent since the 10 Day Notice was issued.

The landlord requests a monetary order in the amount of \$1,072.00 for rent from October 2014 and November 2014.

The tenant testified that she has not paid her rent because her income assistance benefit has been terminated. The tenant testified that she has several outstanding appeals regarding her income assistance.

Analysis

The landlord provided notice to the tenant to end the tenancy on the basis of section 46 of the Act. Pursuant to subsection 46(1) landlord may end a tenancy if rent is unpaid on any day after the day it is due.

The tenant has not filed an application disputing the 10 Day Notice. I accept the evidence before me that the tenant has failed to pay the rent owed in full within the five days granted under subsection 46(4) of the Act. Based on the foregoing, I find that the tenant is conclusively presumed under subsection 46(5) of the Act to have accepted that the tenancy ended on the effective date of the 10 Day Notice, 14 October 2014.

The tenant and the landlord agree that the tenant has not paid rent for either of October 2014 or November 2014. I accept that the landlord is entitled to \$1,072.00 in rent.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$1,122.00 under the following terms:

| Item | Amount |
|-----------------------------|-------------------|
| Unpaid October Rent | \$536.00 |
| Unpaid November Rent | 536.00 |
| Filing Fee | 50.00 |
| Total Monetary Order | \$1,122.00 |

The landlord is provided with these orders in the above terms and the tenant must be served with this order as soon as possible. Should the tenant fail to comply with these orders, these orders may be filed in the Small Claims Division of the Provincial Court and enforced as orders of that Court.

I grant an order of possession to the landlord effective **two days after service of this order** on the tenant(s). Should the tenant(s) fail to comply with this order, this order may be filed and enforced as an order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: November 27, 2014

Residential Tenancy Branch

