



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LU'MA NATIVE HOUSING SOCIETY
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.

The tenant did not attend this hearing, although I waited until 0942 in order to enable the tenant to connect with this teleconference hearing scheduled for 0930. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The agent testified that the landlord served the tenant with the dispute resolution package on 2 March 2016 by registered mail. The landlord provided me with a Canada Post customer receipt that showed the same. On the basis of this evidence, I am satisfied that the tenant was deemed served with the dispute resolution package pursuant to sections 89 and 90 of the Act.

The agent testified that she served the tenant with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) on 10 February 2016 by posting the . The landlord provided me with a witnessed proof of service document. On the basis of this evidence, I am satisfied that the tenant was served with 10 Day Notice pursuant to section 88 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 agent, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

This tenancy began 1 January 2000. Monthly rent is geared to income and is due on the first. Economic rent for the rental unit is established as \$1,298.00 in accordance with the tenancy agreement. The landlord operates under an agreement with a branch of BC Housing. The landlord does not hold a security deposit.

The agent testified that the tenant did not submit her application for rent subsidy. Accordingly, the tenant's rent returned to economic rent.

On 10 February 2016, the landlord served the 10 Day Notice to the tenant. The 10 Day Notice was dated 9 February 2016 and set out an effective date of 20 February 2016. The 10 Day Notice set out that the tenant failed to pay \$2,577.00 in rent that was due on 1 February 2016. The amount included arrears from past months.

The agent testified that the current arrears total \$5,173.00. The agent testified that she was not aware of any reason that would entitle the tenant to deduct any amount from rent.

The landlord claims for rental arrears totaling \$2,577.00:

Item	Amount
Unpaid January Rent	\$1,298.00
Payment Received	-19.00
Unpaid February Rent	1,298.00
Total Monetary Order Sought	\$2,577.00

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

The tenant failed to pay the outstanding rent within five days of receiving the 10 Day Notice. The tenant has not made application pursuant to subsection 46(4) of the Act within five days of receiving the 10 Day Notice. In accordance with subsection 46(5) of the Act, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by 23 February 2016, the corrected effective date of the 10 Day Notice. As that has not occurred, I find that the landlord is entitled to an order of possession effective two days from service on the tenant.

The landlord has provided sworn and uncontested evidence that the tenant has unpaid rental arrears totaling at least \$2,577.00. I find that the landlord has proven its entitlement to the rent arrears. The landlord is entitled to a monetary order for the unpaid rent.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$2,677.00 under the following terms:

Item	Amount
Unpaid January Rent	\$1,298.00
Payment Received	-19.00
Unpaid February Rent	1,298.00
Filing Fee	100.00
Total Monetary Order	\$2,677.00

The landlord is provided with this order in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) 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.

The landlord is provided with a formal copy of an order of possession. 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: April 18, 2016

Residential Tenancy Branch