



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC 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* ("Act") for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorisation to recover the filing fee for this application from the tenant, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 20 minutes. Two representatives of the landlord ("the landlord") attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated September 9, 2016 (the "10 Day Notice"), on that same date, by way of mailing the 10 Day Notice to the tenant. In accordance with section 88 of the *Act*, I find that the tenant was deemed served with the landlord's 10 Day Notice on September 14, 2016, five days after its mailing..

The landlord testified that the tenant was served with the landlord's application for dispute resolution on October 5, 2016, by registered mail. The landlord provided a Canada Post tracking number. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlords' application on October 10, 2016, five days after its mailing.

During the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlord indicated that they wished to lower the monetary amount of the claim by \$1,090.00 to reflect the changes in the tenant's

account since the date of filing. Pursuant to section 64(3)(c) of the *Act*, I amend the landlord's Application to decrease the landlord's monetary claim by \$1,090.00 to \$1,216.00.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to monetary compensation as claimed?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord provided testimony regarding the following facts. This month-to-month tenancy began in May, 2006. The current rent is \$610.00 payable on the 1st of the month. The tenant continued to reside in the rental unit at the time of the hearing.

The landlord gave evidence that at the time that the Application for Dispute Resolution was filed on October 3, 2016 the tenant's total arrears were \$2,306.00. The landlord gave evidence that the tenant made partial payment of \$500.00 on October 7, 2016, a partial payment of \$500.00 on October 20, 2016 and a partial payment of \$700.00 on November 18, 2016. The landlord gave evidence that while the tenant made those payments the tenancy has not been reinstated and the payments were accepted for use and occupancy only. It is the landlord's evidence that the total amount of arrears for this tenancy as of November 25, 2016, the date of the hearing, is \$1,216.00.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I find that the tenant was obligated to pay the monthly rent in the amount of \$610.00. I accept the evidence before me that the tenant failed to pay the full rent due within the five days of service granted under section 46(4) of the *Act* nor did they dispute the 10 Day Notice within that five day period. Accordingly, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, September 24, 2016.

I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$1,216.00.

Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act* and a Monetary Order for unpaid rent owing of \$1,216.00 as at November 25, 2016, pursuant to section 67 of the *Act*.

As the landlord's application was successful, they are also entitled to recovery of the \$100.00 filing fee for the cost of this application.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service 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 issue a monetary order in the landlord's favour in the amount of \$1,216.00 against the tenant. 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 *Residential Tenancy Act*.

Dated: November 28, 2016

Residential Tenancy Branch