



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

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
- authorization to recover the filing fee for this application pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 15 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord's representative LM (the "landlord") testified that he served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, (the "10 Day Notice") on the tenant on November 4, 2016 by registered mail. The landlord provided a Canada Post tracking number. In accordance with section 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 10 Day Notice on November 9, 2016, five days after mailing.

The landlord testified that he served the landlord's application for dispute resolution dated November 17, 2016 on the tenant on November 18, 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 landlord's application on November 23, 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 since the application was filed the tenant has failed to pay the December rent amount and that the rental arrears as of the date of the hearing were \$3,730.00. Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure I amend the landlords' Application to increase the landlords' monetary claim from \$2,984.00 to \$3,730.00.

Issue(s) to be Decided

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

Is the landlord entitled to monetary compensation for unpaid rent as claimed?

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

Background and Evidence

The landlord provided undisputed sworn testimony regarding the following facts. The landlord took over this tenancy agreement from the previous landlord in July, 2016. The current rent is \$746.00 payable on the 1st of the month. There is no security deposit held by the landlord. The tenant continues to reside in the rental unit at the time of the hearing.

The landlord testified that at the time the 10 Day Notice was issued the tenancy was in arrears by \$2,984.00, the amount initially sought in the 10 Day Notice. The landlord gave evidence that the tenant owes the full rental amounts for the months of August to December.

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 \$746.00. I accept the evidence before me that the tenant failed to pay the full rent due within the 5 days of service granted under section 46(4) of the *Act* nor did the tenant dispute the 10 Day Notice within that 5 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, November 19, 2016. Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*.

I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$3,730.00. I issue a monetary award for unpaid rent owing of \$3,730.00 as at December 16, 2016, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlord's application was successful, the landlord is 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 favour of the landlord as follows:

Rental Arrears for August 2016	\$746.00
Rental Arrears for September 2016	\$746.00
Rental Arrears for October 2016	\$746.00
Rental Arrears for November 2016	\$746.00
Rental Arrears for December 2016	\$746.00
Recovery of Filing Fee	\$100.00
Total Monetary Award	\$3,830.00

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: December 19, 2016

Residential Tenancy Branch