



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlords' 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 from the tenant pursuant to section 72.

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

The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice"), dated November 2, 2016 was served on the tenant by posting on the rental unit door on that day. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 10 Day Notice on November 5, 2016, three days after posting.

The landlord testified that the landlords' application for dispute resolution dated November 28, 2016 was sent to the tenants by registered mail on November 30, 2016. The landlord provided a Canada Post tracking number as evidence. In accordance with sections 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's application on December 5, 2016, five days after its mailing.

At the outset of 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 tenants have failed to pay the December and January rent amount and that the total arrears including rent owing and late fees as of the date of the hearing is \$3,090.00. 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 \$1,380.00 to \$3,090.00.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent?

Are the landlords entitled to monetary compensation as claimed?

Are the landlords 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 November, 2015. The current rent is \$830.00 payable on the 1st of the month. No security deposit was paid by the tenant at the start of the tenancy. The tenancy agreement provides that a late fee of \$25.00 becomes payable for each monthly rent that is not paid by the due date. 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 \$1,380.00, the amount initially sought in the 10 Day Notice. The landlord testified that the tenants have made no subsequent payments and the total amount owing for the tenancy as of January 9, 2016, the date of the hearing, is \$3,090.00.

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 \$830.00. 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 effective date of the 10 Day Notice, November 15, 2016. Therefore, I find that the landlords are 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 \$3,090.00. I issue a monetary award for unpaid rent and late fees owing of \$3,090.00 as at January 9, 2016, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlords' application was successful, the landlords 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 landlords effective **2 days after service on the tenants**. Should the tenants 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 landlords' favour in the amount of \$3,190.00 under the following terms, which allows the landlords to recover unpaid rent for the months of October, November, December, and January, applicable late fees, and the filing fee for their application:

Item	Amount
Unpaid Rent October	\$525.00
Unpaid Rent November	\$830.00
Late Fee November	\$25.00
Unpaid Rent December	\$830.00
Late Fee December	\$25.00
Unpaid Rent January	\$830.00
Late Fee January	\$25.00
Filing Fees	\$100.00
Total Monetary Order	\$3,190.00

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: January 9, 2017

Residential Tenancy Branch