



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FF OPR

Introduction

This hearing was convened in response to applications by the landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

- an Order of Possession for non-payment of rent and utilities pursuant to section 55 of the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*;

Although the landlord represented at the hearing by building manager, L.S. (the “landlord”) attended this hearing, the tenant did not appear. The landlord was given full opportunity to be heard, to present evidence and to make submissions.

The landlord provided evidence that a 10 Day Notice to End Tenancy for Unpaid Rent (“10 Day Notice”) for unpaid rent was posted on the tenant’s door on February 15, 2017. Pursuant to sections 88 and 90 of the *Act*, the tenant was deemed served with the 10 Day Notice on February 18, 2017.

The landlord gave sworn testimony that on February 24, 2017 a copy of the Application for Dispute Resolution hearing package as well as the evidentiary package was posted on the tenant’s door. Pursuant to sections 88, 89 and 90 of the *Act*, the tenant was deemed served with the dispute resolution hearing package on February 27, 2017.

Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession?
- Can the landlord recover the filing fee?

Background and Evidence

Undisputed sworn testimony provided during the hearing by the landlord explained that the tenancy in question began “numerous years ago.” The building manager could not provide an exact date as to when the tenancy began but she noted that she has been working for 2 years as the building manager and the tenant had been in the unit prior to appointment in this position. She explained rent was set at \$375.00 per month and a security deposit of \$187.50 continues to be held by the landlord.

The landlord stated that the tenant has failed to pay rent from August to December 2016, as well as for January to March 2017. As a result of the tenant's inability to pay rent, the landlord is seeking an Order of Possession.

When asked why it has taken so long for the owner to pursue this matter, the landlord stated that they have been attempting to work with the tenant to connect him to social services so that he may receive help for the issues he has been facing.

Analysis – Order of Possession

The tenant failed to pay the unpaid rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has not made an application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days has led to the end of the tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by February 24, 2017. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

As the landlord was successful in their application, they may recover the \$100.00 filing fee from the tenant. Using the offsetting provisions contained in section 72 of the *Act* the landlord may retain \$100.00 from the tenant's security deposit.

Conclusion

I grant the landlord an Order of Possession to be effective two days after notice is served to the tenant. The landlord is provided with formal Orders in the above terms. Should the tenant fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

The landlord may retain \$100.00 from the tenant's security deposit to recover their filing fee.

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: March 23, 2017

Residential Tenancy Branch

