



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR 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 and Utilities pursuant to section 55 and to recover the filing fee for this application pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions with respect to her application.

The landlord provided evidence that a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities ("10 Day Notice") was served to the tenant on February 2, 2017 by registered mail. The landlord testified and provided evidence that her Application for Dispute Resolution hearing package with Notice of Hearing ("ADR") on was served to the tenant by registered mail on February 23, 2017. With respect to both registered mailings, the landlord provided a copy of the registered mail receipts. I find the tenant deemed served with the 10 Day Notice in accordance with section 89 and 90 of the Act on February 5, 2017. I find that the tenant was deemed served with the landlord's ADR on February 26, 2017.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for Unpaid Rent and Utilities?
Is the landlord entitled to recover her filing fee for this application?

Background and Evidence

The landlord gave evidence that the residential tenancy agreement began on November 16, 2016 as a 6 month fixed term tenancy. The rental amount for this unit was established at \$1700.00 payable on the 15th of each month. The landlord testified that she continued to hold the \$850.00 security deposit paid by the tenant at the outset of the tenancy.

The landlord applied for an Order of Possession for unpaid rent for the months of January, February and March 2017. The landlord testified that the tenant did not pay rent of \$1700.00 due on January 15, 2017; February 15, 2017; and March 15, 2017. The landlord submitted copies of the tenant's rent cheques as well as copies of her bank statements to show that these cheques had been returned.

The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent on February 2, 2017. The landlord testified that the tenant did not pay the February rent after receiving the 10 Day Notice. The landlord testified that she made attempts to contact and discuss the outstanding rent with the tenant but that the tenant was very argumentative. The landlord testified that the tenant's March 15, 2017 rent cheque was also returned prior to this hearing. The landlord testified that the tenant has not made any attempt to pay the outstanding rental arrears. The landlord applied for an Order of Possession for the tenant's rental unit.

The landlord also applied to recover her \$100.00 filing fee for this application.

Analysis

I accept the undisputed sworn evidence of the landlord that the tenant failed to pay rent for the months of January 2017; February 2017; and March 2017. She has provided documentary evidence to support her testimony. I accept the landlord's undisputed evidence the tenant did not pay rent within five days of receiving the 10 Day Notice to End Tenancy issued on February 2, 2017. I accept the undisputed evidence of the landlord that the tenant has made no attempt to repay three months of outstanding rent.

The tenant has not made 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 action either by paying the outstanding rent or by applying to dispute the 10 Day Notice within five days led to the end of his tenancy on the effective date of the notice. The corrected effective date is February 15, 2017. The tenant was required to vacate the premises by this date. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession.

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. The landlord may deduct \$100.00 from the \$850.00 security deposit currently held by the landlord.

Conclusion

I grant the landlord an Order of Possession to be effective two days after notice is served to 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.

I allow the landlord to reduce the tenant's \$850.00 security deposit to \$750.00 so that the landlord may recover the cost of the filing fee for this application.

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 22, 2017

Residential Tenancy Branch