



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

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*;
- a return of the filing fee pursuant to section 72; and
- a Monetary Order for unpaid rent pursuant to section 67 of the *Act*;

Although 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 8, 2017. Pursuant to sections 88 and 90 of the *Act*, the tenant was deemed served with the 10 Day Notice on February 11, 2017.

The landlord gave testimony that on March 13, 2017 a copy of the Application for Dispute Resolution hearing package as well as the evidentiary package was sent to the tenant by Registered Mail. A copy of the Canada Post tracking number was provided to the hearing as part of the evidentiary package. Pursuant to sections 88, 89 and 90 of the *Act*, the tenant was deemed served with the dispute resolution hearing and evidentiary packages on March 18, 2017. The landlord explained that she has recently received the packages back from Canada Post as there were not collected by the tenant.

Issue(s) to be Decided

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

- Can the landlord recover the filing fee?

Background and Evidence

Undisputed testimony provided during the hearing by the landlord explained that the tenancy in question began on December 1, 2008. Rent was \$526.00 per month and no security deposit was collected.

The landlord stated that the tenant has failed to pay rent from August 2016 to April 2017.

The landlord is seeking a Monetary Order of \$4,613.01 to recover monies owed for non-payment of rent for the following months.

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 21, 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.

Monetary Order

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

The landlord provided testimony and written evidence to the hearing, demonstrating that rent was not paid from August 2016 to April 2017. As part of the landlord's evidentiary package, detailed ledgers recording the non-payment of rent for this period were supplied to the hearing.

As the landlord was successful in her application, she may pursuant to section 72 of the *Act* recover the \$100.00 filing fee.

Pursuant to section 67 of the *Act*, I find that the landlord is entitled to a Monetary Order of \$4,713.01 for unpaid rent and for the recovery of the filing fee.

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.

I make a Monetary Order of \$4,713.01 in favour of the landlord. 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: April 12, 2017

Residential Tenancy Branch