



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 pursuant to section 55; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord entered written evidence that they posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on March 4, 2017. I am satisfied that the landlord served this Notice to the tenants in accordance with section 88 of the *Act*. In accordance with section 90 of the *Act*, the 10 Day Notice was deemed served to the tenants on March 7, 2017, the third day after its posting.

The landlord gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package were sent to the tenant by registered mail on March 16, 2017. The landlord entered into written evidence the Canada Post Tracking Numbers, showing that their hearing package was sent to the tenant by Registered Mail and was signed for and received by the tenant on March 30, 2017. I am satisfied that the tenant has been served in accordance with Section 89 of the *Act*.

Issues(s) to be Decided

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

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

Background and Evidence

The tenancy began on or about April 1, 2013. Rent in the amount of \$1260.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month(s) of March

and on March 4, 2017 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of April. The landlord advised that as of today's hearing the amount of unpaid rent is \$2620.00.

Analysis

The tenant failed to pay their rent in full within five days of being deemed to have received the 10 Day Notices. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice.

I find that the landlord is entitled to a 2 day Order of Possession. The landlord is granted an Order of Possession pursuant to Section 55 of the *Act*, which must be served on the tenant(s). If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

The landlord has applied for an order of possession and the recovery of the filing fee; however they have not "checked off" the box on their application that they seek a monetary order for the unpaid rent, therefore I cannot address that issue in this decision. In addition, the landlord has stated that the tenant owes her money for utilities and damage. The landlord is at liberty to make a separate application seeking a monetary order for these claims if she so chooses.

The landlord is entitled to the recovery of the \$100.00 filing fee for this application. The landlord is entitled to retain \$100.00 from the security deposit in full satisfaction of that claim.

Conclusion

The landlord is granted an order of possession and is entitled to retain \$100.00 from the security deposit.

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 19, 2017

Residential Tenancy Branch