



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FORTIN HOLDINGS LTD. D.B.A. TRAVELLERS RESIDENCE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act"):

- an Order of Possession for unpaid rent pursuant to section 55;
- a Monetary Order for unpaid rent and damages pursuant to section 67;
- authorization to retain the security deposit pursuant to section 38; 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 landlord was represented by their agent, RK (the "landlord") who attended the hearing 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 February 16, 2017 was served on the tenant on that date by posting on the rental unit door. 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 February 19, 2017, three days after posting.

The landlord testified that the landlord's application for dispute resolution dated April 18, 2017 was sent to the tenant by registered mail on that same date. The landlord provided a Canada Post tracking number as evidence of service. I find that the tenant was served with the landlord's application for dispute resolution and evidence package in accordance with sections 88, 89 and 90 of the *Act* on April 23, 2017, five days after mailing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to monetary compensation as claimed?

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

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This fixed term tenancy began in April, 2016. The rent is \$425.00 payable on the first of the month. A security deposit of \$212.50 was paid by the tenant at the start of the tenancy and still held by the landlord.

The landlord testified that at the time the 10 Day Notice was issued the tenancy was in arrears by \$5,860.00, the amount sought in the 10 Day Notice. The landlord testified that the tenant has not made payment since the 10 Day Notice was issued nor are they aware of the tenant having filed a dispute of the 10 Day Notice. The landlord said that the total amount owing for the tenancy as of May 18, 2017, the date of the hearing is \$5,860.00.

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 \$425.00. I accept the landlord's evidence 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 corrected effective date of the 10 Day Notice, March 1, 2017. Therefore, I find that the landlord is 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 \$5,860.00. I issue a monetary award in the landlord's favour for unpaid rent of \$5,860.00 as at May 18, 2017, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security deposit of \$212.50 in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenant 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 landlord's favour in the amount of \$5,747.50 under the following terms, which allows the landlords to recover unpaid rent and the filing fee for their application:

Item	Amount
Total Unpaid Rent for Tenancy	\$5,860.00
Filing Fee	\$100.00
Less Security Deposit	-\$212.50
Total Monetary Order	\$5,747.50

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: May 18, 2017

Residential Tenancy Branch