



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, FF

Introduction

This hearing was convened as a result of the Landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for an Order of Possession based on a Notice to End Tenancy for Cause issued on March 29, 2017 (the "Notice"), a Monetary Order for unpaid rent and to recover the filing fee.

Only the Landlord attended the teleconference hearing. He was given the opportunity to be heard, to present his affirmed testimony, to present his evidence orally and in written and documentary form, and make submissions to me.

As the Tenant did not attend the hearing, service of the Landlord's Application and Notice of a Dispute Resolution Hearing (the "Application Materials") was considered. The Landlord testified that the Application Materials were served on the Tenant by registered mail on April 27, 2017. A copy of the Canada Post Tracking number for the registered mail package is included on the unpublished cover page of this my Decision.

Residential Tenancy Policy Guideline 12—Service Provisions provides that service cannot be avoided by refusing or failing to retrieve registered mail:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to section 90 of the *Residential Tenancy Act* documents served this way are deemed served five days later; accordingly, I find the Tenant was duly served as of May 2, 2017 and I proceeded with the hearing in his absence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Is the Landlord entitled to a Monetary Order for unpaid rent?
3. Should the Landlord recover the filing fee?

Background and Evidence

A copy of the residential tenancy agreement was provided in evidence and which indicated that a month to month tenancy agreement between the parties began on or about February 1, 2016. At the time of the hearing, monthly rent in the amount \$1,200.00 was due on the first day of each month during the tenancy.

The Landlord testified that the Tenant is repeatedly late paying rent and as a result he issued the Notice on March 29, 2017. The effective date of the Notice was April 30, 2017

The Landlord testified that the Notice was personally served on the Tenant on March 29, 2017.

The Notice informs the Tenant that he had ten days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

The Landlord testified that the Tenant did not apply for dispute resolution.

The Landlord applied for dispute resolution on April 26, 2017.

The Landlord provided undisputed testimony as to the reasons for issuing the Notice and stated the Tenant paid rent late every month and never paid in full. The Landlord also provided a copy of the "Rent Roll" for the rental unit which confirmed the payments for January through May 2017.

The Landlord also provided in evidence a Monetary Orders worksheet wherein the Landlord sought a Monetary Order for the following:

Unpaid rent for April 2017	\$400.00
Balance of unpaid rent	\$475.00
Rent for May 2017	\$800.00
TOTAL	\$1,675.00

The Landlord stated that on May 6, 2017 the Tenant paid \$400.00 and on May 29, 2017 the Tenant paid \$200.00. As such the amount sought by the Landlord was \$1,075.00 in addition to the \$100.00 filing fee for a total of \$1,175.00.

Analysis

Based on the documentary evidence, the undisputed testimony of the Landlord, and on the balance of probabilities, I find the following.

The Tenant did not apply to dispute the Notice and is conclusively presumed, pursuant to section 47(5) to accept the end of the tenancy and must vacate the rental unit. The Landlord is entitled to an Order of Possession pursuant to section 55 of the *Act* which will be effective at **1:00 p.m.**, two days after service on the Tenant. This Order must be served on the Tenant and may be filed in the B.C. Supreme Court and enforced as an Order of that court.

I grant the Landlord's request for monetary compensation in the amount of \$1,075.00 for unpaid rent.

As the Landlord's application had merit, I also grant the Landlord the recovery of the \$100.00 filing fee.

The Landlord is awarded a Monetary Order pursuant to sections 67 and 72 of the *Act* in the amount of **\$1,175.00**. This Order must be served on the Tenant and may be filed in the B.C. Provincial Court (Small Claims) and enforced as an Order of that court.

Conclusion

The Tenant failed to dispute the Notice and therefore the Landlord is entitled to an Order of Possession pursuant to sections 47 and 55 of the *Residential Tenancy Act*.

The Landlord is granted a Monetary Order in the amount of **\$1,175.00**. The Landlord is at liberty to apply for further monetary compensation should he suffer any further losses.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 31, 2017

Residential Tenancy Branch