



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR MNR MNSD MNDC FF CNR

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;
- a monetary order for unpaid rent pursuant to section 67;
- a monetary order for compensation for money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

While the landlord's legal counsel, HR, attended the hearing by way of conference call, the tenant did not. I waited until 11:17 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 a.m. The landlord's legal counsel was given a full opportunity to be heard, to make submissions and to call witnesses.

The landlord's legal counsel submitted that the Application for Dispute Resolution hearing package ('Application') was served to the tenant by way of registered mail on June 4, 2017. The tracking number was provided in evidence. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the Application. The landlord's legal counsel submitted that the landlord's evidence was personally served to the tenant on June 19, 2017, and sent by registered mail on June 20, 2017. A tracking number was provided in evidence. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's evidence.

The landlord's legal counsel submitted the tenant was personally served with the 10 Day Notice, with an effective date of May 15, 2017, on May 1, 2017. In accordance with section 88 of the *Act*, I find that the tenant was duly served with the 10 Day Notice on May 1, 2017.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the 10 Day Notice?

Is the landlord entitled to a monetary award for unpaid rent or money owed under the tenancy agreement, regulation, or *Act*?

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

Background and Evidence

The landlord's legal counsel provided the following facts. This month-to-month tenancy began in September 2016 with monthly rent set at \$450.00, payable on the first of each month. No security deposit was ever paid for this tenancy.

The landlord issued the 10 Day Notice on May 1, 2017 to the tenant indicating an effective move-out date of May 15, 2017. A copy of the 10 Day Notice was included in the landlord's evidence. The tenant has not paid any rent since the 10 Day Notice was issued to the tenant. The tenant owes \$450.00 in monthly rent for the months of December 2016 through to May 2017. The total unpaid rent is \$2,700.00. The landlord is seeking an Order of Possession for unpaid rent, as well as a Monetary Order for \$2,700.00, plus recovery of the \$100.00 filing fee.

Analysis

The landlord submitted undisputed evidence for this hearing, as the tenant did not attend. The tenant failed to pay the rent in full, within five days of being deemed to have received the 10 Day Notice. The tenant did not make an 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 failure of the tenant to take either of the above actions within five days led to the end of this tenancy on May 15, 2017, the effective date on the 10 Day Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by May 15, 2017. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act*. I find that the landlord's 10 Day Notice complies with section 52 of the *Act*.

The landlord's legal counsel presented undisputed evidence that the tenant failed to pay the outstanding rent in the amount of \$2,700.00. Therefore, I find that the landlord is entitled to \$2,700.00 in outstanding rent for this tenancy.

As the landlord was successful in their application, I find that they are entitled to recover the \$100.00 filing fee for this application.

Conclusion

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant(s)**. Should the tenant(s) 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 \$2,800.00 Monetary Order in favour of the landlord, which allows the landlord to recover unpaid rent and the filing fee for this application. 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: July 21, 2017

Residential Tenancy Branch