



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CENTURY 21 HARBOUR REALTY LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

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

- an Order of Possession for unpaid rent pursuant to section 55;
- a Monetary Order for unpaid rent pursuant to section 67; 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 10 minutes. The corporate landlord was represented by its agent, ES (the "landlord") who 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 July 4, 2017 was served on the tenant by posting on the rental unit door on that same day. 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 July 7, 2017, three days after posting.

The landlord testified that the landlord's application for dispute resolution dated July 17, 2017 was served personally on the tenant on or about July 28, 2017, as well as by posting on the rental unit door. I find that the landlord's application was served in accordance with section 89 of the Act on July 28, 2017.

At the outset of the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlord indicated that since the application was filed the tenant made some payment that was accepted for use and occupancy only and other amounts have come due. The landlord said that the total arrears as of

the date of the hearing is \$2,100.00. Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure, as additional rent coming due is reasonably foreseeable, I amend the landlord's Application to increase the landlords' monetary claim from \$1,050.00 to \$2,100.00.

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 periodic tenancy began in November, 2016. The monthly rent is \$1,050.00 payable on the first. A security deposit of \$525.00 was paid at the start of the tenancy and is still held by the landlord.

The landlord testified that at the time the 10 Day Notice was issued the tenancy was in arrears by \$1,050.00, the amount initially sought in the 10 Day Notice. The landlord testified that while the tenant made a payment on July 21, 2017 which was accepted for use and occupancy only there is a current arrear of \$2,100.00 for the tenancy.

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 \$1,050.00. I accept the evidence before me 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 effective date of the 10 Day Notice, July 14, 2017. Therefore, I find that the landlords are 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 \$2,100.00. I issue a monetary award for unpaid rent owing of \$2,100.00 as at October 6, 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 \$525.00 security deposit 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 tenant**. 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 \$1,675.00 under the following terms, which allows the landlords to recover unpaid rent and the filing fee for their application:

Item	Amount
Unpaid Rent	\$2,100.00
Filing Fees	\$100.00
Less Security Deposit	-\$525.00
Total Monetary Order	\$1,675.00

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: October 6, 2017

Residential Tenancy Branch