



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

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

- an Order of Possession for landlord's use pursuant to section 55; and
- a monetary Order for unpaid rent pursuant to section 67.

The tenant did not attend this hearing which lasted approximately 10 minutes. The landlord attended and was primarily represented by his agent SM (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that the 2 Month Notice to End Tenancy for Landlord's Use dated April 29, 2017 (the "2 Month Notice") was served on the tenant personally on April 30, 2017. I find that the tenant was duly served with the landlord's 2 Month Notice in accordance with section 88 of the *Act* on that date.

The landlord testified that the landlord's application for dispute resolution dated July 16, 2017 was served personally on the tenant on July 29, 2017. I find that the tenant was duly served with the landlord's application in accordance with section 89 of the *Act* on that date. The landlord testified that the amendment to the application for dispute resolution filed on September 20, 2017 as served on the tenant on that date by registered mail. The landlord provided a Canada Post tracking number as evidence of service. I find that the tenant was deemed served with the amendment in accordance with sections 89 and 90 of the *Act* on September 25, 2017, five days after mailing Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This tenancy began in November, 2016. The monthly rent is \$2,000.00 payable on the first of each month. A security deposit of \$1,000.00 was collected at the start of the tenancy and is held by the landlord.

In accordance with section 51 of the Act, the landlord did not collect rent for the month of June, 2017. The tenant remains in the rental unit and has failed to pay any rent for the months of July, August, September and October, 2017. The landlord testified that they are seeking a monetary award in the amount of \$8,000.00 for those months.

Analysis

Section 49 of the Act provides that upon receipt of a notice to end tenancy for landlord's use the tenant may, within 15 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has failed to file an application for dispute resolution within the 15 days of service granted under section 49(8) of the Act. Accordingly, I find that the tenant is conclusively presumed under section 49(9) of the Act to have accepted that the tenancy ended on the effective date of the 2 Month Notice, June 30, 2017.

The landlord's 2 Month Notice meets the form and content requirements of section 52 of the Act as it is in the approved form and clearly identifies the parties, the address of the rental unit and the effective date of the notice. Therefore, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the Act. As the effective date of the 2 Month Notice has passed, I issue a 2 day Order of Possession.

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 \$2,000.00. I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$8,000.00. I issue a monetary award in the landlord's favour for unpaid rent of \$8,000.00 as at October 5, 2017, the date of the hearing, pursuant to section 67 of the Act.

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 \$1,000.00 in partial satisfaction of the monetary award issued in the landlords' favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant(s)**. Should the tenant(s) or any occupant 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 \$7,000.00, which allows the landlord to recover unpaid rent and retain the security deposit for this tenancy.

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 5, 2017

Residential Tenancy Branch