



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

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; and
- a monetary order for unpaid rent pursuant to section 67.

The tenant did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord entered written evidence and sworn testimony that they posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on July 10, 2017. I am satisfied that the landlord served this Notice to the tenants in accordance with section 88 of the *Act*. In accordance with section 90 of the *Act*, the 10 Day Notice was deemed served to the tenants on July 13, 2017, the third day after its posting.

The landlord gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on August 9, 2017. The landlord entered into written evidence copies of the Canada Post Tracking Numbers. In accordance with sections 89 and 90 of the *Act*, I am satisfied that the tenant was served with the landlord's dispute resolution hearing package.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Background and Evidence

The tenancy began on or about November 1, 2014. Rent in the amount of \$1600.00 is payable in advance on the first day of each month. At the outset of the tenancy the tenant paid an \$800.00 security deposit which the landlord still holds. The tenant failed to pay rent in the month(s) of June and July 2017 and on July 10, 2017 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of August-October 2017. The landlord advised that as of today's hearing the amount of unpaid rent is \$6700.00. The landlord testified that she has made numerous attempts to resolve the matter with the tenant, but to no avail. The landlord testified that she wants the tenancy to end.

Analysis

The tenant failed to pay their rent in full within five days of being deemed to have received the 10 Day Notice. The tenant has not made 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 tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice.

In this case, this required the tenants to vacate the premises by July 23, 2017. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord is granted an Order of Possession pursuant to Section 55 of the *Act*, which must be served on the tenant(s). If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence provided by the landlord, I am satisfied that the tenant continues to owe the landlord unpaid rent. Although the landlord has not applied to retain the security deposit, using the offsetting provision under Section 72 of the *Act*, I hereby apply the \$800.00 security deposit against the amount of unpaid rent. I issue a monetary award in the landlord's favour in the amount of \$5900.00

Conclusion

The landlord is granted an order of possession and a monetary order for \$5900.00. The landlord is entitled to retain the security deposit as well.

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 30, 2017

Residential Tenancy Branch