



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRLS, FFL

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

- an order of possession pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72; and

The landlord participated in the conference call hearing but the tenant(s) did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by having a witness present when personally serving the tenants on November 9, 2017. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing in accordance with Section 89 of the Act and the hearing proceeded in their absence.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Is the landlord entitled to the recovery of the filing fee for this application?

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about August 1, 2017. Rent in the amount of \$1200.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$600.000. The tenant failed to pay rent in the month(s) of November 2017 and November 2, 2017 the landlord served the tenant with a notice to end tenancy. The landlord testified that the tenant paid the November rent in full on November 18, 2017 to which a receipt was issued for “use and occupancy only, tenancy not reinstated”. The landlord testified that the tenants continued to fall behind in paying rent and as of today’s hearing the amount of unpaid rent is \$500.00 for the month of January.

Analysis

I accept the landlord’s undisputed testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession pursuant to Section 55 of the Act. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find that the landlord has established a claim for \$500.00 in unpaid rent. The landlord is also entitled to recovery of the \$100.00 filing fee. Although the landlord has not applied to retain the security deposit, using the offsetting provision under Section 72 of the Act I apply the security deposit against the landlords’

entitlement. The landlord is entitled to retain the security deposit in full satisfaction of their claim.

Conclusion

The landlord is granted an order of possession. The landlord may retain the security deposit.

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: January 23, 2018

Residential Tenancy Branch