



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: FFL OPRM-DR

Introduction

This hearing, adjourned from a Direct Request process in which a decision is made based solely on the written evidence submitted by the landlord, 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, pursuant to section 72 .

While the landlord attended the hearing by way of conference call, the tenant did not. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenant was personally served with the landlord's application for dispute resolution hearing package on February 7, 2018. In accordance with section 89 the *Act*, I find that the tenant was duly served with the landlord's application on February 7, 2018.

The landlord testified that the tenant was personally served with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated December 31, 2017("10 Day Notice") on January 1, 2018. In accordance with section 88 of the *Act*, I find that the tenant was duly served with the landlord's 10 Day Notice on January 1, 2018. The landlord testified that the tenant was also served by way of Registered mail on December 31, 2017, and the notice was also placed in the tenant's mailbox on the same date.

Although the landlord applied for a monetary Order of \$2,955.00 in their initial claim, since they applied another \$2,200.00 in rent has become owing that was not included in their application. I have accepted the landlord's request to amend their original application from \$2,955.00 to \$5,155.00 to reflect this additional unpaid rent that became owing by the time this hearing was convened.

Issue(s) to be Decided

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

Is the landlord entitled to monetary compensation for unpaid rent?

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

Background and Evidence

The landlord testified regarding the following facts. This month-to-month tenancy began on December 1, 2016, with monthly rent in the amount of \$1,100.00 payable on the first day of each month. The landlord holds a security deposit in the amount of \$550.00 for this tenancy. The tenant still resides at the rental suite.

The landlord issued the 10 Day Notice on December 31, 2017, indicating an effective move-out date of January 27, 2018. The landlord testified that the tenant owes \$5,155.00 in outstanding rent for the months of November 2017 through to March 2018, and has not paid any rent since the 10 Day Notice was issued to her.

Analysis

The landlord provided undisputed evidence at 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 January 27, 2018, 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 January 27, 2018. I find that the landlord's 10 Day Notice complies with section 52 of the *Act*. As the tenant has not moved out, I find that the landlord is entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act* so the landlord may take full possession of the premises.

The landlord provided undisputed evidence that the tenant failed to pay the outstanding rent in the amount of \$5,155.00. Therefore, I find that the landlord is entitled to \$5,155.00 in outstanding rent for this tenancy.

The landlord continues to hold the tenant's security deposit of \$550.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim.

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

Conclusion

I grant an Order of Possession to the landlord effective **two (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 \$4,705.00 Monetary Order in favour of the landlord, which allows the landlord to recover unpaid rent, the filing fee for this application, and also allows the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim.

Item	Amount
Unpaid Rent	\$5,155.00
Recovery of Filing Fee for this Application	100.00
Security Deposit and Pet Damage Deposit	-550.00
Total Monetary Order	\$4,705.00

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: March 5, 2018

Residential Tenancy Branch