



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vancouver Eviction Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNRL, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution under the *Residential Tenancy Act* (the *Act*). The landlord is seeking the following:

- an Order of Possession;
- a Monetary Order for unpaid rent;
- order to retain the security deposit; and
- authorization to recover the filing fee for this application from the tenant.

The hearing was conducted via teleconference. The landlord and the landlord's agent VES attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:40 AM to enable the tenant to participate in the hearing scheduled for 9:30 AM. I confirmed the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord, the landlord's agent and I were the only ones who had called into this teleconference.

As a preliminary matter, I granted the landlord's request to correct the minor misspelling of the tenant's name in the style of cause.

The landlord testified the tenant was served with the Notice of Hearing documents pursuant to Section 59(3) and 89 of the *Act* by registered mail on May 12, 2018. The landlord provided the Canada Post tracking number for the registered mail. Pursuant to Section 90, the tenant is deemed served on May 17, 2018, the 5th day after mailing.

Based on the submissions of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act* and is deemed to have received the Notice of Hearing package on May 17, 2018.

Issue(s) to be Decided

The issues to be decided are:

- Is the landlord entitled to an Order of Possession pursuant to Section 46 and 55(2) of the *Act*?
- Is the landlord entitled to a Monetary Order pursuant to Section 67 of the *Act*?
- Is the landlord entitled to order to retain the security deposit, pursuant to Section 72?
- Is the landlord entitled to reimbursement of the filing fee pursuant to Section 72(1) of the *Act*?

Background and Evidence

The landlord provided undisputed evidence at this hearing as the tenant did not attend.

The landlord testified the parties entered into a residential tenancy agreement signed by both parties on December 19, 2017, indicating a monthly rent of \$1,100.00, due on the first day of each month, for a tenancy commencing on December 19, 2017. The tenant paid a security deposit of \$550.00 which is still held by the landlord.

The landlord submitted the following documents in evidence:

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities ("10-Day Notice") dated April 16, 2018, for \$3,300.00 in unpaid rent providing the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the stated effective vacancy date of May 6, 2018 (corrected to May 9, 2018);
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10-Day Notice was posted to the tenant's door on April 26, 2018 thereby effecting service three days after posting on April 29, 2018 pursuant to Sections 88 and 90.

The landlord provided uncontradicted testimony no rent has been received after service of the 10-Day Notice and rent of \$4,400 for four months is unpaid and owing to the landlord.

The landlord testified the tenant continues to reside in the property.

Analysis

I have reviewed all documentary evidence and testimony. I am satisfied the form and content of the landlord's 10-Day Notice complies with Section 52 of the *Act*. I am satisfied the tenant has been served with the 10-Day Notice on April 29, 2018 in accordance with Section 88 and 90 of the *Act* and with the Notice of Hearing documents in accordance with Section 89 of the *Act*.

I am satisfied the tenant has not paid the overdue rent or disputed the 10-Day Notice within the five-day period following service. Therefore, pursuant to Section 46(5) of the *Act*, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice (being the corrected date of May 9, 2018) requiring the tenant to vacate the rental unit by that date.

The landlords are therefore entitled to an Order of Possession pursuant to Section 55 of the *Act*. As the effective day of the 10-Day Notice has passed, I issue a 2-day Order of Possession.

The landlord testified that the tenant continues to reside in the premises and rent for the month of June 2018 is unpaid.

Based on the uncontradicted evidence of the landlord, I find the landlord is entitled to a Monetary Order pursuant to Section 67 in the amount of \$4,400.00 for unpaid rent.

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 the offsetting provisions of Section 72 of the *Act*, I allow the landlord to retain \$550.00 of the tenant's security deposit in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant the landlord an Order of Possession effective two days after service on the tenant. This Order must be served on the tenant. If the tenant fails to comply with this Order, the landlord may file the Order with the Supreme Court of British Columbia to be enforced as an Order of that Court.

I grant a Monetary Order in the amount of **\$4,500.00** comprised of \$4,400.00 in unpaid rent and the \$100.00 filing fee paid by the landlord for the Application. This order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order in the Provincial Court (Small Claims) and be 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: June 19, 2018

Residential Tenancy Branch