



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL MNRL FFL

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;
- a monetary Order for unpaid rent pursuant to section 67; and
- recovery of the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The landlord attended and, with the assistance of his translator, 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 February 27, 2018 (the "2 Month Notice") was served on the tenant personally on February 28, 2018. Based on the testimony, 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 May 3, 2018 and evidentiary materials were served on the tenant by registered mail sent on May 4, 2018. The landlord submitted a Canada Post tracking number as evidence of service. Based on the testimony and written evidence, I find that the tenant was deemed served with the landlord's application and evidence in accordance with sections 88, 89 and 90 of the *Act* on May 9, 2018, 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?

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

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This tenancy began in 2015. The current monthly rent is \$800.00 payable on the first of each month. No security deposit was collected for this tenancy.

The landlord issued the 2 Month Notice on February 27, 2018 as he intended to occupy the rental unit himself. The landlord explained that he has found a job in the area and he plans to relocate and reside in the rental unit.

In accordance with section 51 of the Act, the landlord did not collect rent for the month of April, 2018. The tenant remains in the rental unit and has failed to pay any rent for the months of May and June, 2018. The landlord testified that they are seeking a monetary award in the amount of \$1,600.00 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, April 30, 2018.

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 \$800.00. I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy, as of the date of the hearing, is \$1,600.00. I issue a monetary award in the

landlord's favour for unpaid rent of \$1,600.00 as at June 8, 2018, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlord's application was successful the landlord may also recover the filing fee for the application.

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 \$1,700.00, which allows the landlord to recover unpaid rent and the filing fee for this application.

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: June 8, 2018

Residential Tenancy Branch