



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TRG REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL, OPR

Introduction

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

- an Order of Possession, pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

The landlord participated in the teleconference; the tenant did not despite keeping the line open until 11:10 a.m. for this hearing which was scheduled for 11:00 a.m. on this date.

The landlord gave sworn testimony that he personally served the Notice of Hearing Package and her Application to the tenant on October 20, 2018 in the presence of a witness. Based on the undisputed testimony, I am satisfied that the tenant was served notice of this hearing in accordance with section 89 of the *Act* and the hearing proceeded and completed on that basis. The landlord was given full opportunity to present their evidence, make arguments and make submissions.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

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

Background and Evidence

The tenancy began on or about October 1, 2016. Rent in the amount of \$825.00 is payable in advance on the first day of each month. The landlord collected and still holds a security deposit of \$400.00. The tenant failed to pay rent in the month(s) of August and on September 3, 2018 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of September – November inclusive. The landlord advised that as of today's hearing the amount of unpaid rent is \$2850.00.

Analysis

The tenant failed to pay their rent in full within five days of being served 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 tenant to vacate the premises by September 16, 2018. 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.

The landlord has provided sufficient evidence to show that there is still outstanding rent on this date. The landlord is also entitled to the recovery of the \$100.00 filing fee. The landlord is entitled to retain \$100.00 from the security deposit in full satisfaction of that claim.

Conclusion

The landlord is granted an order of possession. The tenancy is terminated.

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: November 27, 2018

Residential Tenancy Branch