



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LADHA ENTERPRISES LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR-S, FF

Introduction

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

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the notice of hearing package and the submitted documentary evidence was served via Canada Post Registered Mail on January 10, 2019 and has provided a copy of a completed proof of service document, Canada Post Customer Receipt and Tracking Label as confirmation. The landlord stated that the Canada Post Online Tracking system shows as of the date of this hearing that the tenant has not claimed the package and it is being returned to the sender. The landlord stated that the tenant still resides at the rental unit. I accept the undisputed affirmed testimony of the landlord and find that the tenant has been properly served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?
Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?
Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on November 1, 2017 on a fixed term tenancy ending on November 1, 2018 as per the submitted copy of the signed tenancy agreement dated November 7, 2017. The monthly rent is \$950.00 and a security deposit of \$450.00 was paid on October 31, 2017.

The landlord seeks an order of possession and a monetary order for unpaid rent of \$1,950.00. During the hearing the landlord clarified that the tenant's rent transactions are as follows:

\$50.00	Unpaid Rent, November 2018
\$950.00	Unpaid Rent, December 2018
\$950.00	Unpaid Rent, January 2019
\$950.00	Unpaid Rent, February 2019
\$1,000.00	Rent Payment made by Tenant on February 1, 2019
	Receipt issued to Tenant "For Use and Occupancy Only"
\$1,900.00	Total Unpaid Rent as of Hearing Date

The landlord stated that the tenant failed to pay rent of \$1,000.00 that was due on December 1, 2018 and was served a 10 Day Notice for Unpaid Rent (the 10 Day Notice) dated December 2, 2018 by posting it to the rental unit door on December 2, 2018. The 10 Day Notice provides for an effective end of tenancy date of December 12, 2018.

The landlord confirmed in her direct testimony that the tenant made a partial payment of \$1,000.00 on February 1, 2019 for which receipt was issued "For Use and Occupancy Only". The landlord has submitted a copy in evidence in support of this claim.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

In this case, I accept the undisputed evidence of the landlord and find that the tenant was served with the 10 Day Notice dated December 2, 2018 by posting it to the rental unit door. The tenant is deemed to have been served 3 days later as per section 90 of the Act. The effective end of tenancy date is corrected to December 15, 2018. As such, I find that the landlord has established a claim for an order of possession effective 2 days after service upon the tenant.

As for the monetary claim, I find based upon the undisputed evidence of the landlord that the tenant has failed to pay rent as claimed on the 10 Day Notice dated December 2, 2018. I also find based upon the undisputed evidence of the landlord that the tenant has continued to not pay rent with the exception of the \$1,000.00 payment made on February 1, 2019. Based upon the landlord's calculations and that the tenant still occupies the rental space, the landlord has established a claim for unpaid rent of \$1,900.00.

The landlord having been successful is entitled to recovery of the \$100.00 filing fee. I authorize the landlord to retain the \$450.00 security deposit in partial satisfaction of the claim. The landlord is granted a monetary order for the balance due of \$1,550.00.

Conclusion

The landlord is granted an order of possession.
The landlord is granted a monetary order for \$1,550.00.

These orders must be served upon the tenant. Should the tenant fail to comply with these orders, they may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court of British Columbia and enforced as orders of those courts.

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: February 15, 2019

Residential Tenancy Branch