



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, 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 recover his filing fee for this application from the tenant pursuant to section 72.

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 provided undisputed testimony that the notice of hearing package and the submitted documentary evidence was served to the tenant by posting it to the rental unit door on February 23, 2019. The landlord submitted a photograph of the posted package as confirmation of service. I accept the undisputed evidence of the landlord and find that the tenant was sufficiently served as per section 90 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?

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 July 1, 2018 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated June 12, 2018. The monthly rent is \$1,050.00 payable each month. A security deposit of \$525.00 was paid.

The landlord clarified that a 10 Day Notice to end tenancy for Unpaid Rent dated January 14, 2019 was served to the tenant on January 14, 2019 to an adult at the rental unit with a witness. The landlord provided a copy of a completed proof of service document as confirmation, but noted that this document was incorrectly completed. The 10 Day Notice states that the tenant failed to pay rent of \$1,050.00 that was due on January 1, 2019.

The landlord provided affirmed testimony that monthly rent was paid by direct deposit from the ministry on behalf of the tenant and that no rent has been paid since this notice being issued on January 14, 2019. The landlord confirmed that no rent has been paid for January 2019.

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.

I accept the undisputed evidence of the landlord and find that the 10 Day Notice dated January 14, 2019 was served to the tenant via an adult present at the rental unit on January 14, 2019. The landlord provided undisputed evidence that rent is normally paid by the ministry by the 1st day of each month and that no rent has been paid.

I find on a balance of probabilities that the landlord has provided sufficient evidence that the tenant was served with the 10 Day Notice dated January 14, 2019 and that no rent has been paid. The landlord is granted an order of possession effective 2 days after the tenant is served.

As such, the landlord is also entitled to recovery of unpaid rent for the original application filed for \$1,050.00. However, I note the landlord provided undisputed evidence that the tenant still occupies the rental unit and no rent for February and March 2019 has been paid. As this is a continuing action following the 10 Day Notice, I find that the landlord has established a claim for unpaid rent for \$2,100.00 for February and March 2019 rent. The landlord has established a claim of \$3,150.00.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlord is granted an order of possession.

The landlord is granted a monetary order for \$3,250.00.

These orders must be served upon the tenant. Should the tenant fail to comply with the orders, the orders 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: March 14, 2019

Residential Tenancy Branch