



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR FFL

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 from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord appeared and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent dated March 15, 2019 by posting on the rental unit door on that date. The landlord provided documentary evidence of service. Based on the testimony and evidence I find that the tenant was deemed served with the 10 Day Notice on March 18, 2019, 3 days after posting, in accordance with sections 88 and 90 of the *Act*.

The landlord testified that they served the application for dispute resolution on the tenant by leaving it with an adult who resides with the tenant on April 27, 2019. The landlord provided documentary evidence of service. Based on the testimony and evidence of the landlord I find that the tenant was served with the application for dispute resolution on April 27, 2019 in accordance with section 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

The landlord provided evidence on the following facts. This periodic tenancy began in the summer of 2018. No written tenancy agreement exists. The rent is \$700.00 payable by the 1st of each month. No security deposit was collected for this tenancy.

The tenant failed to pay the rent for March 2019 by the 1st and the landlord issued a 10 Day Notice. The tenant failed to make any payment for the outstanding rent nor did the tenant file an application to dispute the 10 Day Notice. The tenant has subsequently failed to make any payment for the months of April and May 2019.

Analysis

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 \$700.00. I accept the evidence before me that the tenant failed to pay the full rent due for the month of March 2019 and the landlord issued a 10 Day Notice. I find that the 10 Day Notice complies with the form and content requirements of section 52 of the Act as it is signed and dated and provides the rental unit address and the reason for the tenancy to end. I find that the tenant failed to make full payment within the 5 days of service granted under section 46(4) of the *Act* nor did the tenant dispute the 10 Day Notice within that 5 day period. Accordingly, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, March 28, 2019. Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*. As the effective date has passed I issue an Order of Possession effective 2 days after service.

As the landlord's application was successful, the landlord is also entitled to recover the \$100.00 filing fee for this application.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenant or anyone 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 \$100.00 against the tenant. The landlord is provided with this Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: May 27, 2019

Residential Tenancy Branch