



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FFL

Introduction

On May 1, 2019, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an order of possession; for a monetary order for unpaid rent or utilities; and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlord’s agents (“the Landlord”) and the Tenant attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to an order of possession due to unpaid rent?
- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The parties testified that the tenancy began on September 1, 2017, on a month to month basis. Rent is geared to income and is based on 30% of the Tenants gross monthly income. Rent in the mount of \$619.00 is due by the first day of each month. A security deposit was not required by the Landlord.

The Landlord testified that the Tenant failed to pay the rent due under the tenancy agreement for the months of December 2018, January 2019, February 2019, March 2019, April 2019, May 2019, and June 2019.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 10, 2019, ("the 10 Day Notice").

The Landlord testified that the Tenant was served with the Notice in person on April 10, 2019.

The 10 Day Notice indicates that the Tenant has failed to pay rent in the amount of \$3,023.00 which was due on April 1, 2019. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

The Tenant testified that she received the 10 Day Notice and did not dispute the notice or pay the rent owing under the tenancy agreement. The Tenant is still residing in the rental unit.

The Landlord provided a rent payment ledger and testified that the Tenant owes rent for the following months:

December 2018	\$475.00
January 2019	\$619.00
February 2019	\$619.00
March 2019	\$619.00
April 2019	\$619.00
May 2019	\$619.00
June 2019	\$619.00
total	\$4,189.00

The Landlord seeks an order of possession for the rental unit and a monetary order for unpaid rent in the amount of \$4,189.00.

The Tenant provided testimony that she did not have the money to pay the rent.

Analysis

Based on the evidence before me, the testimony of the Landlord and Tenant, and on a balance of probabilities, I find that the Tenant did not pay all the rent owing under the tenancy agreement within five days of receiving the 10 Day Notice, and did not apply to dispute the Notice, and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective two days after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

I find that the Tenant owes the Landlord \$4,189.00 in unpaid rent for the above mentioned months.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$4,289.00 comprised of \$4,189.00 in unpaid rent for the above mentioned dates and the \$100.00 fee paid by the Landlord for this hearing.

I find that the Landlord is entitled to a monetary order in the amount of \$4,289.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenant failed to pay the rent due under the tenancy agreement and did not file to dispute the 10 Day Notice. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

The Landlord is granted an order of possession effective two (2) days after service on the Tenant and I grant a monetary order for the unpaid rent and the cost of the filing fee in the amount of \$4,289.00.

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 13, 2019

Residential Tenancy Branch



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