



# Dispute Resolution Services

Page: 1

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 and utilities pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover the filing fee for this application pursuant to section 72.

This application was originally heard by way of a Direct Request Proceeding and on August 19, 2019 an interim decision was issued adjourning the application to be reconvened at a participatory hearing.

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 10:00 a.m. to enable the tenants to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, present evidence and make submissions.

The landlord testified that on September 3, 2019, copies of his original Application for Dispute Resolution, plus 1<sup>st</sup> Amended Application including the Notice of Hearing and Interim Decision were sent to both tenants by registered mail. The 1<sup>st</sup> Amendment was filed to correct the rental unit address from 8607 to 8706. The landlord testified the registered mail was sent to the corrected address. The landlord also filed a second amendment to increase the monetary amount claimed and a copy of this amendment was sent to both tenants by registered mail on September 6, 2019. The landlord provided registered mail receipts and tracking numbers in support of service.

Based on the above evidence, I am satisfied that the tenants were deemed served with the Application for Dispute Resolution including two subsequent amendments, Notice of Hearing and Interim Decision pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenants.

The corrected rental unit address is reflected on the cover page of this decision.

### Issues

Is the landlord entitled to an order of possession pursuant to a 10 Day Notice to End Tenancy for unpaid rent (the 10 Day Notice)?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee and other application costs?

### Background and Evidence

The tenancy began on April 1, 2019 with a monthly rent of \$1200.00 payable on the 1<sup>st</sup> day of each month. The tenants paid a security deposit of \$600.00 at the start of the tenancy which the landlord continues to hold.

The landlord testified that on August 6, 2019 he served the tenants with the 10 Day Notice by posting a copy to the door of the rental premises. A witnessed proof of service of the 10 Day Notice was provided with the application.

The landlord's monetary claim is for outstanding rent in the amount of \$3600.00. The landlord testified that this includes unpaid rent for the months of August, September and October 2019. The landlord testified the tenants did not pay the outstanding rent as per the 10 Day Notice within 5 days of receiving the Notice and have not paid any rent since.

### Analysis

Section 46 of the Act requires that upon receipt of a 10 Day Notice the tenant must, within five days, either pay the full amount of the arrears indicated on the 10 Day Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the 10 Day Notice.

I am satisfied that the tenants were deemed served with the 10 Day Notice on August 9, 2019, three days after its posting, pursuant to sections 88 & 90 of the Act. The tenants would have had until August 14, 2019 to pay the outstanding amount as per the 10 Day Notice which they failed to do.

I find that the 10 Day Notice issued by the landlord complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I accept the landlord's uncontested evidence and claim for outstanding rent of \$3600.00 for the months of August, September and October 2019.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$3700.00. The landlord's claim for costs associated with serving application documents to the tenants is dismissed as the Act does not provide for recovery of costs aside from the filing fee

The landlord is entitled to a Monetary Order in the amount of \$3700.00.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$3700.00. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order 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: October 03, 2019

---

Residential Tenancy Branch