



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, FFL

Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “Act”) for an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”), and for the recovery of the filing fee paid for the Application for Dispute Resolution.

The application was filed under the Direct Request process but was scheduled for a participatory hearing as the Landlord’s submissions did not meet the document requirements for the Direct Request Process.

The Landlord was present for the hearing while no one called in for the Tenants. The Landlord was affirmed to be truthful in his testimony and stated that the Tenants were served with the Notice of Dispute Resolution Proceeding package and a copy of his evidence by registered mail. The Landlord stated that the registered mail was sent shortly after receiving the hearing documents from the Residential Tenancy Branch. Although the Landlord was unable to locate the registered mail receipt during the hearing, I accept his affirmed testimony that the documents were served by registered mail and therefore find that the Tenants were served in accordance with Section 89 of the *Act*.

Issues to be Decided

Is the Landlord entitled to an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent?

Should the Landlord be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

The Landlord provided undisputed testimony on the tenancy. Although the tenancy agreement was submitted into evidence, only some of the pages were included and therefore does not confirm the details as stated by the Landlord. However, the Landlord stated that the tenancy started in February 2019 for a monthly rent of \$1,100.00. A security deposit was not paid.

The Landlord testified that he served the Tenants in person with the 10 Day Notice on July 20, 2019. A copy of the 10 Day Notice was included in evidence and states that \$1,100.00 was unpaid as due on July 1, 2019. A proof of service form was also submitted and signed by a witness confirming in person service on July 20, 2019.

The Landlord stated that the Tenants made a payment of \$550.00 on August 12, 2019 but have not paid any amount towards the outstanding rent since then.

The Landlord testified that he did not receive any notification that the Tenants had applied to dispute the 10 Day Notice.

Analysis

I accept the undisputed testimony of the Landlord that the 10 Day Notice was served to the Tenants in person on July 20, 2019. As stated in Section 46(4) of the *Act*, a tenant has 5 days to dispute a 10 Day Notice or to pay the outstanding rent. I accept the testimony of the Landlord that the outstanding rent was not paid within 5 days and I have no evidence before me that the Tenants applied to dispute the 10 Day Notice.

Therefore, I find that the Tenants are conclusively presumed to have accepted that the tenancy ends, pursuant to Section 46(5) of the *Act* as follows:

(5) If a tenant who has received a notice under this section does not pay the rent or make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit to which the notice relates by that date.

Upon review of the 10 Day Notice, I find that the form and content comply with Section 52 of the *Act*, and therefore, pursuant to Section 55(2) of the *Act*, the Landlord is entitled to an Order of Possession. I grant the Landlord a two-day Order of Possession to serve on the Tenants.

As the Landlord was successful with the application, pursuant to Section 72 of the *Act*, I award the recovery of the filing fee in the amount of \$100.00. The Landlord is awarded a Monetary Order in this amount.

Conclusion

Pursuant to Section 55 of the *Act*, I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenants. 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 Sections 67 and 72 of the *Act*, I grant the Landlord a **Monetary Order** in the amount of **\$100.00** for the recovery of the filing fee paid for the Application for Dispute Resolution. The Landlord is provided with this Order in the above terms and the Tenants must be served with this Order as soon as possible. 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 28, 2019

Residential Tenancy Branch