



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FFL OPR-DR

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for possession under a 10-Day Notice to End Tenancy for Unpaid Rent (“Ten-Day Notice”) pursuant to sections 46 and 55;
- Authorization to recover the filing fee for this application pursuant to section 72.

The landlord attended with his son and agent BAS (“the landlord”). The landlord attended and provided affirmed testimony. The landlord made submissions as well as presented oral and written evidence.

The tenant did not attend the hearing. I kept the teleconference line open from the time the hearing was scheduled for thirty minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant had been provided.

The landlord testified the landlord personally served the tenant with the Application for Dispute Resolution and supporting documents pursuant to section 89 of the *Act* on September 28, 2019. I find the landlord served the tenant on September 28, 2019.

Issue(s) to be Decided

Is the landlord entitled to the following:

- An order for possession under a 10-Day Notice to End Tenancy for Unpaid Rent (“Ten-Day Notice”) pursuant to sections 46 and 55;
- Authorization to recover the filing fee for this application pursuant to section 72.

Background and Evidence

The landlord provided affirmed uncontradicted evidence as follows as the tenant did not attend the hearing.

The landlord testified that the parties entered into a signed residential tenancy agreement on August 1, 2019. Rent is currently \$2,500.00 a month payable on the first of the month. The landlord submitted a copy of the agreement signed by both parties. The tenant provided a security deposit of \$600.00 at the beginning of the tenancy which the landlord holds.

The landlord submitted a copy of the Ten-Day Notice to End Tenancy for Nonpayment of Rent ("the Ten-Day Notice") dated September 6, 2019 claiming outstanding rent of \$3,750.00 with an effective date of September 16, 2019. The landlord testified the landlord personally served the Ten-Day Notice on the tenant on September 6, 2019

The Notice requires the tenant to pay the rent and utilities to the landlord or file an Application for Dispute Resolution within five days.

The landlord testified the tenant did not pay the rent owing or file an Application for Dispute Resolution within five days; rent as claimed remained owing. The landlord provided uncontradicted testimony that rent is owing in the amount of \$9,750.00 which includes rent up to the date of the hearing.

The landlord testified the tenant continued to reside in the rental unit.

The landlord did not request a monetary order for outstanding rent but requested reimbursement of the filing fee of \$100.00.

The landlord requested an order of possession effective two days after service.

Analysis

I have reviewed all documentary evidence and testimony.

I find the form and content of the Ten-Day Notice complies with section 52 of the *Act*. I find the tenant was served with the Ten-Day Notice on June 6, 2019 in accordance with the *Act*.

I find the tenant did not pay the overdue rent or dispute the Ten-Day Notice within the five-day period following service.

Therefore, pursuant to section 46(5), the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice (being June 17, 2019) requiring the tenant to vacate the rental unit by that date.

As the tenant continued to occupy the unit, I find the landlord is entitled to an order of possession under section 46, effective two days after service.

As the landlord is successful in this action, I grant the landlord a monetary award of \$100.00 as reimbursement for the filing fee.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenants. This order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order with the Supreme Court of British Columbia to be enforced as an order of that Court.

I grant the landlord a monetary order of \$100.00. The order may be filed in the British Columbia Supreme Court and enforced as an order of that court. The order must be served on the tenant.

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: December 02, 2019

Residential Tenancy Branch