



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL OPRM-DR

Introduction

This hearing dealt with the landlord's applications pursuant to the *Residential Tenancy Act* (the "Act") for

- an order of possession for unpaid rent with monetary order (the "Ten-Day Notice") pursuant to section 46 and 55 of the *Act*;
- monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67; and
- a monetary order for the filing fee pursuant to section 72 of the *Act*.

The landlord's agent MS and the tenant DS attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The landlord's agent testified that he served the tenant with the application for dispute resolution via Canada Post registered mail after November 7, 2019. The landlord's agent provided a copy of the registered mail tracking number.

The tenant confirmed receipt of the landlord's application for dispute resolution but was unable to recall the exact date received. The landlord's agent testified that the Ten-Day Notice to End Tenancy ("Notice") was posted on the door on November 6, 2019 with an effective move out date of November 19, 2019. I find that the both parties were served in accordance with sections, 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, I do not reproduce all details of the respective submissions and/or arguments in my decision. I reference only the facts that are relevant to my decision herein.

The landlord's agent submitted a copy of the tenancy agreement which commenced on September 1, 2012 with a monthly rent of \$916.00 and a security deposit of \$375.00.

The landlord's representative testified that they posted the Notice on the tenant's door on November 6, 2019. The landlord provided a copy of the Notice in evidence. The Notice stated that \$916.40 was due on November 1, 2019 and remained outstanding on November 6, 2019. The Notice provided an effective move out date of November 19, 2019.

The landlord's agent testified that the tenant paid a partial payment of \$500.00 towards the November rent. He testified that the tenant continues to reside in the rental unit and has not paid the December 2019 and January 2020 rent.

The tenant agreed that he had only paid \$500.00 towards the November rent and that the rent for December 2019 and January 2020 was in arrears, with a total amount outstanding of \$2,249.20. The tenant testified that he did not have any money to pay the rental arrears.

Analysis

Pursuant to section 46(4) of the *Act*, a tenant has five days after receipt of a Ten-Day Notice to dispute the Notice or to pay the entire portion of unpaid rent.

Section 46(5) of the *Act* states that “a tenant who does not pay the rent or file an application to dispute a notice to end tenancy for unpaid rent within five days of the service of the notice is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.”

The tenant had five days after the date of service of November 6, 2019 to dispute the notice or the pay the rent in full. In this case, the tenant had until November 11, 2019 to pay the outstanding rent arrears. Since the tenant did not pay the rent or file an application to dispute the landlord’s Notice within the five-day deadline, I find that the tenant is conclusively presumed to have accepted that this tenancy ended on the effective date of the Notice. The Notice stated a move out date of November 19, 2019. pursuant to section 46 (5) of the *Act*.

Based on the undisputed testimony of the landlord and the tenancy agreement, I find that the landlord holds a security deposit of \$375.00. I find that the security deposit may be deducted from the unpaid rent pursuant to section 72(2)(b) of the *Act*.

In addition, since the landlord has been successful this matter, I award the landlord \$100.00 towards the filing fee.

Accordingly, I order the tenant to pay the sum of \$1,974.20 to the landlord as follows.

ITEM	AMOUNT
Outstanding rent November 2019	\$416.40
Outstanding rent December 2019	\$916.40
Outstanding rent January 2020	\$916.40
Less: security deposit held by landlord	(\$375.00)
Filing fee recovered by landlord	\$100.00
TOTAL	\$ 1,974.20

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. 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 and be enforced as an order of that Court.

I grant the landlord a monetary order in the amount of **\$1,974.20** If the tenant fails to comply with this order, the landlord may file the order in the Provincial Court to be 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: January 27, 2020

Residential Tenancy Branch