



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1162538 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNRL, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- an Order of Possession for unpaid rent, pursuant to sections 46 and 55 of the Act;
- a Monetary Order for unpaid rent, pursuant to sections 26 and 67 of the Act; and
- recovery of the filing fee, pursuant to section 72 of the Act.

Although I left the teleconference hearing connection open until 1:41 P.M. to enable the tenant to call into this teleconference hearing scheduled for 1:30 P.M., the tenant did not attend this hearing. The landlord representative SS ("the landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

I accept the landlord's testimony that the tenant was served with the Notice of Hearing and evidence (the Materials) by registered mail on December 19, 2019, in accordance with section 89 of the Act (the tracking number is reproduced on the cover of this decision).

Section 90 of the Act provides that a document served in accordance with Section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find the tenant is deemed to have received the Materials on December 24, 2019.

Preliminary Issue – Amendments of Claim

At the hearing the landlord sought to amend his application to include a claim for January 2020 rent which he testified remains outstanding. He requested to increase his monetary claim to \$1,650.00.

I find that the increase in the landlord's monetary claim should have been reasonably anticipated by the tenant. Therefore, pursuant to section 4.2 of the Rules and section 64 of the Act, I order that the landlord's application be amended to include a claim for January 2020 rent.

Issues to be Decided

Is the landlord entitled to:

- an Order of Possession for non-payment of rent?
- a Monetary Order for unpaid rent in the amount of \$1,650.00; and
- authorization to recover the filing fee for this application from the tenant?

Background and Evidence

While I have considered the documentary evidence and the testimony of the landlord, not all details of her submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claim and my findings are set out below.

The landlord testified rent is \$550.00 per month, due on the first day of the month. There is no security deposit.

The landlord also testified the 10 day Notice to End Tenancy (the Notice) was served by registered mail on November 28, 2019, with an effective date of December 15, 2019. The tenant has not paid any rent since the Notice was issued and has not vacated the unit. Current arrears are \$1,650.00 for November and December 2019 and January 2020 (\$550.00 for each month).

The landlord submitted the Notice and a Monetary Order Worksheet (RTB-37).

Analysis

I have reviewed all the documentary evidence and deem the tenant served with the Notice on December 03, 2019 in accordance with sections 89 (2)(a) and 90(a) of the Act. I find the Notice is valid pursuant to section 52 of the Act. The tenant has not disputed the Notice and is conclusively presumed under sections 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, December 15, 2019.

Section 26 of the Act requires that a tenant pay rent when it is due under the tenancy agreement.

I accept the landlord's uncontroverted evidence the tenant has been in arrears since November 2019 and the total rent amount owing is \$1,650.00 for November and December 2019 and January 2020 (\$550.00 for each month).

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this order** on the tenant. Should the tenant 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 \$1,750.00 for unpaid rent and the for the recovery of the filing fee.

The landlord is provided with this order in the above terms and the tenant must be served with **this order** as soon as possible. Should the tenant 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: January 27, 2020

Residential Tenancy Branch