



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FF, OPR, MNR

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

The landlord attended the hearing via conference call and provided undisputed affirmed testimony. The tenants did not attend or submit any documentary evidence. The landlord stated that each of the tenants were served with a notice of hearing package via Canada Post Registered Mail on January 9, 2020. The landlord has submitted as part of the documentary evidence package copies of the Canada Post Receipt Tracking Number and labels. The landlord also stated that the tenants were served with the submitted documentary evidence package by placing it in the tenant's mailbox on February 15, 2020. The landlord confirmed that no documentary evidence was submitted by the tenants.

I accept the undisputed affirmed testimony of the landlord and find that the tenants have been properly served as per sections 88 and 89 of the Act. The tenants are deemed served as per section 90 of the Act.

Preliminary Issue(s)

At the outset, it was clarified with all parties that the landlord had filed two separate applications for dispute for the same issues. The landlord had applied for the first file via the Direct Request Process (Ex Parte) and the second file was made via the

participatory hearing. Discussions resulted in the hearing proceeding on both files, but that one decision would be rendered for both as the issues were confirmed as the same.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord provided undisputed affirmed testimony that no signed tenancy agreement exists, but that the landlord made a verbal agreement with the tenants for a month-to-month tenancy at \$2,000.00 per month payable on the 1st day of each month.

The landlord stated that the tenants failed to pay rent for the months, October, November and December 2019. The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent dated December 19, 2019. It states in part that the tenants failed to pay rent of \$6,000.00 that was due on December 1, 2019. The 10 Day Notice also displays an effective end of tenancy date of December 19, 2019. The landlord stated that the tenants were served with the 10 Day Notice on December 19, 2019 by posting it to the rental unit door. The landlord has submitted photographs of the 10 Day Notice taped to the rental unit door and a completed proof of service document as confirmation of service.

The landlord stated that since the 10 Day Notice was served, no rent has been paid and the tenants still occupy the rental unit as of the date of this hearing. The landlord stated that he continues to suffer a loss of rental income for January and February 2020 at \$2,000.00 per month.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

In this case, I accept the undisputed affirmed evidence of the landlord and find that the tenants were properly served with the 10 Day Notice dated November 19, 2019 by posting it to the rental unit door. I also find based upon the landlord's undisputed affirmed testimony that the tenants have failed to pay the \$2,000.00 monthly rent due as per the 10 Day Notice dated November 19, 2019. On this basis, I find that the landlord is entitled to an order of possession for unpaid rent. I note the effective end of tenancy date of November 19, 2019 is in error and correct it as per the Act to November 22, 2019. As the effective end of tenancy date has now passed, I grant the landlord the order of possession to be effective two days after it is served upon the tenants.

As for the monetary claim of \$8,000.00, I accept the landlord's undisputed affirmed evidence that the tenants failed to pay rent for the 3 months for \$6,000.00 as provided for in the 10 Day Notice dated November 19, 2019. I also accept the undisputed evidence of the landlord that the tenants still occupy the rental unit and have made no rent payments. I find that the landlord is entitled to compensation of \$4,000.00 for the loss of rent for the months January and February 2020. The landlord has established a total monetary claim for \$10,000.00.

The landlord having been successful is entitled to recovery for one of the \$100.00 filing fees only.

Conclusion

The landlord is granted an order of possession for unpaid rent.
The landlord is granted a monetary order for \$10,100.00.

These orders must be served upon the tenants. Should the tenants fail to comply with the orders, the orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court of British Columbia.

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: February 28, 2020

Residential Tenancy Branch