



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding West Fraser Holdings Ltd and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes **OPR, MNRL-S**

Introduction

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

- An order for possession pursuant to section 46 and 55;
- A monetary order for unpaid rent pursuant to section 67;
- Authorization to apply the security deposit to the monetary order pursuant to section 72;
- Authorization to recover the filing fee for this application pursuant to section 72.

I conducted this hearing by teleconference. The landlord's agent JB appeared for the landlord ("the landlord"). The tenant attended. Both parties provided affirmed testimony, made submissions as well as presented oral and written evidence.

The tenant acknowledged receipt of the Notice of Hearing and Application for Dispute Resolution. I find the landlord served the tenant as required by the Act. The tenant acknowledged he had not filed a cross-application.

Issue(s) to be Decided

Is the landlord entitled to an order of possession pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to a monetary order pursuant to section 67 of the *Act*?

Is the landlord entitled to retain the security deposit pursuant to section 72 of the *Act*?

Is the landlord entitled to reimbursement of the filing fee pursuant to section 72 of the *Act*?

Background and Evidence

The landlord testified that the parties entered into a signed residential tenancy agreement commencing August 1, 2020. Rent is currently \$1,725.00 a month payable on the first of the month. The landlord submitted a copy of the agreement.

The landlord testified the tenant paid a security deposit at the start of the tenancy, of \$863.00 and a pet deposit in the same amount, for a total of \$1,726.00 ("the security deposit") which is held by the landlord. During the hearing, the tenant provided authorization to the landlord to retain the deposit for application to the award for outstanding rent.

The landlord issued the Ten-Day Notice which the landlord testified the landlord served by posting to the tenant's door on January 14, 2020, thereby affecting service under section 90 on January 17, 2020 claiming unpaid rent of \$6,900.00.00. The landlord filed a witnessed Proof of Service Notice to End Tenancy form. The tenant was uncertain when he was served but acknowledged receiving the Notice. The effective date of the notice is January 24, 2020, corrected to January 27, 2020.

The landlord submitted a copy of the Ten-Day Notice as evidence. 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.

The tenant acknowledged that the amount of rent claimed is owing and has not been paid; the tenant has not filed an Application for Dispute Resolution. The tenant acknowledged continuing to reside in the rental unit.

The landlord provided uncontradicted testimony that rent is owing in the amount of \$6,900. The tenant agreed this amount of rent was owing and agreed to a monetary order in this amount.

The landlord requested a monetary order for outstanding rent of \$6,900.00 reimbursement of the filing fee of \$100.00 and authorization to apply the security deposit to the monetary award, to which the tenant agreed.

The landlord requested an order of possession effective two days after service. The tenant requested more time and testified that he was looking for a new place to live that would take his pet.

A summary of the landlord's claim follows:

ITEM	AMOUNT
Rent	\$ 6,900.00
Reimbursement of the filing fee	\$100.00
(Less security deposit)	(\$1,726.00)
Total Monetary Award Requested	\$5,274.00

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 January 17, 2020 in accordance with sections 88 and 90 of the *Act*.

As acknowledged by the tenant, 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 corrected effective date of the notice of January 27, 2020 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.

Based on the uncontradicted evidence of the landlord, I find the landlord is entitled to a monetary order pursuant to section 67 in the amount of \$6,900.00. I award the landlord reimbursement of the \$100.00 filing fee. The tenant consented to the monetary award.

Further to the offsetting provisions of section 72 and pursuant to the tenant's consent, the landlord is entitled to apply the security deposit to the monetary award.

A summary of my monetary finding follows:

ITEM	AMOUNT
Rent	\$ 6,900.00
Reimbursement of the filing fee	\$100.00
(Less security deposit)	(\$1,726.00)
Total Monetary Award	\$5,274.00

Conclusion

I grant a monetary order to the landlord in the amount of **\$5,274.00**.

This order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

I also grant the landlord 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 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: April 28, 2020

Residential Tenancy Branch