



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Emperio Holdings Inc
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPRM-DR, OPR-DR, FFL

Introduction

This hearing was reconvened from an Interim Decision dated April 2, 2020 in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. An Order of possession - Section 55; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenants did not attend the hearing. I accept the Landlord’s evidence that the Tenants were served with the Interim Decision, notice of reconvened hearing and evidence in person and by email on April 5, 2020 as ordered in the Interim Decision. The Landlord was given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to unpaid rent?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy under written agreement started on January 1, 2020. Rent of \$1,225.00 is payable on the first day of each month. At the outset of the tenancy the Landlord

collected \$612.50 as a security deposit and \$306.25 as a pet deposit. The Tenants failed to pay rent for March 2020 and on March 7, 2020 the Landlord served the Tenants with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door. The Notice sets out unpaid rent of \$1,225.00 due March 1, 2020.

At the outset of the tenancy the Tenants were informed by the Landlord to pay rent by e-transfer and the Tenants did so for January and February 2020 rents. Although the tenancy agreement and Notice did not include an address for service to the Landlord the Tenants had methods of communicating with the Landlord through email, text and a number of social media sites. The Tenants did communicate with the Landlord after receipt of the Notice and also signed confirmation of receipt of the Landlord's original application of March 21, 2020, Interim Decision and evidence. In their communications with the Landlord after the service of the Notice the Tenants never indicated that the Notice was not valid or that the Tenants intended to dispute the Notice. The Tenants did not dispute the Notice. The Landlord received the outstanding March 2020 rent on April 20 and 22 by email. The Tenants have not moved out of the unit. Since making its original application, the Landlord updated the tenancy agreement with its address for service.

Analysis

Section 55(2) of the Act provides that where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired, a landlord may request an order of possession. Given the undisputed evidence that the Tenants received the Notice, did not dispute the Notice and have not moved out of the unit I find that the Landlord is entitled to an order of possession.

It is noted that section 4(3) of the Residential Tenancy (COVID-19) Order, MO 89/2020 (Emergency Program Act) issued March 30, 2020 (the "Ministerial Order") provides that despite section 84 of the Residential Tenancy Act, a tenant or landlord must not file an

order of possession in the Supreme Court of British Columbia unless the order of possession was granted under section 56 or 56.1 of the Residential Tenancy Act.

As the Tenants have paid the rent claimed I dismiss the claim for unpaid March 2020 rent. As the Landlord's application had merit, I find that the Landlord is entitled to recovery of the **\$100.00** filing fee and I order the Landlord to deduct this amount from the security deposit of \$612.50 in full satisfaction of the claim.

Conclusion

I grant an Order of Possession to the Landlord. The Tenants must be served with this **Order of Possession**. Should the Tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court subject to section 4(3) of the Ministerial Order.

I order that the Landlord retain \$100.00 from the security **deposit** and interest of \$612.50 in full satisfaction of the claim.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: May 25, 2020

Residential Tenancy Branch