



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, FFL

Introduction

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

- an order of possession for unpaid rent, pursuant to section 55; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord, the tenant, and the tenant's agent 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 tenant confirmed that his agent, who is his sister, had permission to speak on his behalf. This hearing lasted approximately 48 minutes.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the landlord's application. The tenant confirmed that he did not submit any evidence for this hearing.

The tenant confirmed receipt of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated February 6, 2020 ("first 10 Day Notice") and dated March 2, 2020 ("second 10 Day Notice"). The landlord stated that both notices were served to the tenant by way of posting to his rental unit door on the above two dates. The effective move-out date on the first 10 Day Notice is February 18, 2020 and on the second 10 Day Notice is March 15, 2020. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlord's first 10 Day Notice on February 6, 2020 and second 10 Day Notice on March 2, 2020.

Preliminary Issue – Inappropriate Behaviour by the Tenant during the Hearing

Rule 6.10 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing

Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator’s direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

Throughout the hearing, the tenant spoke at the same time as me and yelled at me. When I repeated the same question and rephrased it numerous times to the tenant, he continued to speak at the same time as me. When I asked the tenant to stop yelling at me and interrupting me, so he could hear, understand and answer my questions, he continued with his inappropriate behaviour. The tenant’s agent had to repeatedly tell the tenant to calm down and answer my questions during the hearing.

I warned the tenant that I would disconnect him from the conference if he continued with his inappropriate and disruptive behaviour; yet, this behaviour did not stop. However, I allowed the tenant to attend the full hearing, despite his behaviour, in order to present his submissions.

I caution the tenant to not to engage in the same behaviour at any future hearings at the RTB, as this behaviour will not be tolerated, and he may be excluded from future hearings. In that case, a decision will be made in the absence of the tenant.

Issues to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

While I have turned my mind to the landlord's documentary evidence and the testimony of both parties, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on January 3, 2019. Monthly rent in the amount of \$800.00 is payable on the first day of each month. A security deposit of \$400.00 was paid by the tenant and the landlord continues to retain this deposit. No written tenancy agreement was signed by the parties, only a verbal agreement was reached. The tenant continues to reside in the rental unit.

The landlord seeks an order of possession based on both 10 Day Notices and the \$100.00 application filing fee.

Both parties agreed to the following facts. The landlord issued the first 10 Day Notice for unpaid rent of \$600.00 due on February 1, 2020 and the second 10 Day Notice for unpaid rent of \$1,400.00 due on March 1, 2020. The tenant failed to pay rent of \$600.00 for February 2020, as the landlord discounted the tenant's rent by \$200.00. The tenant failed to pay rent of \$300.00 for March 2020, since the tenant paid \$500.00. The tenant failed to pay rent of \$600.00 for April 2020, since the tenant paid \$200.00. The tenant paid rent of \$1,200.00 on May 30, 2020, towards the outstanding rent. The tenant currently owes rent of \$1,100.00 from February to May 2020.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant agreed with what the landlord said. The tenant failed to pay the full rent due on February 1, 2020 and March 1, 2020, within five days of receiving the first and second 10 Day Notices. The tenant has not made an application pursuant to section 46(4) of the *Act* within five days of receiving both 10 Day Notices. In accordance with section 46(5) of the *Act*, the failure of the tenant to take either of the above actions within five days led to the end of this tenancy on February 18, 2020, the effective date on the first 10 Day Notice.

In this case, this required the tenant and anyone on the premises to vacate the premises by February 18, 2020. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 55

of the *Act*. I find that both of the landlord's 10 Day Notices comply with section 52 of the *Act*.

As the landlord was successful in this application, I find that he is entitled to recover the \$100.00 filing fee from the tenant. I order the landlord to retain \$100.00 from the tenant's security deposit of \$400.00. The remainder of the tenant's security deposit of \$300.00 will be dealt with at the end of this tenancy in accordance with section 38 of the *Act*.

Conclusion

I grant an Order of Possession to the landlord effective two (2) days after service on the tenant. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I order the landlord to retain \$100.00 from the tenant's security deposit of \$400.00 in full satisfaction of the monetary award for the filing fee. The remainder of the tenant's security deposit of \$300.00 will be dealt with at the end of this tenancy in accordance with section 38 of the *Act*.

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: June 01, 2020

Residential Tenancy Branch