



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, FFL

Introduction

The landlord filed an Application for Dispute Resolution (the “Application”) on October 5, 2020 seeking an order of possession for the rental unit, to recover the money for unpaid rent, and to recover the filing fee for the Application. The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on December 14, 2020. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the telephone conference call hearing; the tenant did not attend.

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the tenant with this Notice of Dispute Resolution Proceeding. This means the landlord must provide proof that the document was served at a verified address allowed under section 89 of the *Act*, and I must accept that evidence.

The landlord gave testimony that they used registered mail for this purpose. They included a registered mail receipt in their evidence to show this. In the hearing they provided that the package came back to them approximately two weeks later. The package contained the notice of this hearing and their prepared evidence.

I accept the landlord’s evidence that the tracking history showed that the tenant refused the registered mail package; therefore, I find they avoided service.

Based on the submissions of the landlord, I accept they served the tenant notice of this hearing and their Application in a manner complying with section 89(1)(c) of the *Act*, and the hearing proceeded in the tenant’s absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this Application pursuant to section 72 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section.

The landlord spoke to the terms of the tenancy agreement. They did not provide a copy in their evidence. The tenancy began on April 1, 2019, with the rent amount of \$1,200 per month. The landlord stated that they presented a written copy of a tenancy agreement to the tenant; however, the tenant did not sign and return the same as requested.

The landlord applied for an Order of Possession pursuant to the 10 Day Notice to End Tenancy for Unpaid Rent (the “10-Day Notice”). They attached this to the door of the tenant on September 3, 2020.

The landlord also provided a document entitled Proof of Service. This sets out that the landlord attached the 10-Day Notice to the door of the rental unit on September 3 and 10:00 a.m. A witness signed the document to attest to the fact that they observed the landlord service this document “to the entrance door of the basement suite where [the tenant] resides.”

The 10-Day Notice states that the tenant had five days from the date received to pay the rent in full or apply for dispute resolution, or the tenancy would end on the vacancy date indicated, September 13, 2020.

The reason for the landlord serving the 10 Day Notice is the unpaid rent for September 2020.

They also applied for a monetary order for \$2,400.00 in unpaid rent for September and October 2020. In the hearing, the landlord stated they received a rent payment for the subsequent month of November 2020. As of the date of the hearing, the landlord did not receive rent for the month of December 2020. Including December, the total amount of rent owing is \$3,600.

Analysis

From the testimony of the landlord I am satisfied that a tenancy agreement was in place. The agent provided the specific term of rental payment and amount. The tenant did not attend the hearing; therefore, there is no evidence before me to show otherwise.

I accept the undisputed evidence before me that the tenant failed to pay the rent owed in full by September 11, 2020, within the five days granted under 46(4) of the *Act*. The tenant did not dispute the 10 Day Notice within that five-day period.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, September 13, 2020.

The landlord provided testimony on the account in question and the accumulation of the amount. As presented, I find the amount of \$3,600 is accurate. By Rule 4.2 of the Residential Tenancy Branch Rules of Procedure, I accept the landlord's amendment to their Application. The tenant did not attend the hearing; therefore, there is no evidence to the contrary on this exact amount.

The hearing itself was scheduled on December 14, 2020, and the agent of the landlord stated that the tenant was still living in the rental unit on that date. The tenant has been overholding since the effective date of the end of tenancy, September 13, 2020. For this reason, I grant the landlord the full monthly rental amounts of \$1,200.00 for September, October and December.

I find the landlord is entitled to an Order of Possession as well an award for the unpaid rent amount of \$3,600.00. As the landlord is successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

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 \$3,700.00 for rent owed for September 2020 through to December 2020 and a recovery of the filing fee for this hearing application. 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 *Act*.

Dated: December 14, 2020

Residential Tenancy Branch