



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, OPR-DR, FFL

Introduction

This hearing was reconvened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

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

The Tenants did not attend the hearing. The Interim Decision dated December 22, 2020 orders the Landlord to serve the Tenant with the Interim Decision within 3 days of receipt of the Interim Decision. I accept the Landlord’s evidence that the Interim Decision was received on December 24, 2020 and served on the Tenants on December 26, 2020 by registered mail. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenants are deemed to have received the Interim Decision on December 31, 2020. The Landlords were given full opportunity 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 March 29, 2020. Rent of \$2,200.00 is payable on the last day of each month for the proceeding month. At the outset of the tenancy the Landlord collected \$1,100.00 as a security deposit. The Tenants failed to pay rent for October 2020 and on October 19, 2020 the Landlord served the Tenants with a 10-day notice to end tenancy for unpaid rent of \$2,200.00 (the "Notice"). The Tenants did not dispute the Notice, did not pay the rent set out on the Notice and did not move out of the unit. On January 23, 2021 the Landlord served the Tenants with a 2nd notice to end tenancy for unpaid rent of \$12,603.00 due January 31, 2021. The Tenants did not dispute this notice, did not pay any outstanding rent, did not pay rent for March 2021, and have not moved out of the unit.

The Landlord claims unpaid rental arrears of \$12,603.00 plus unpaid rent of \$2,200.00 for March 2021.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Based on the undisputed evidence of the Landlord I find that the Landlord gave the Tenants the Notice and that the Tenants did not dispute the Notice or pay the \$2,200.00 rent set out as owing on the Notice. As a result, I find that the Landlord is entitled to an order of possession. As the Landlord has been successful with its claim for an order of possession, I find that the 2nd notice to end tenancy for unpaid rent does not require consideration.

Section 26 of the Act provides that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations

or the tenancy agreement. Based on the Landlord's undisputed evidence of unpaid rents and the tenancy agreement for the terms of the rental payments, I find that the Landlord has substantiated unpaid rent of **\$14,803.00**. As the Landlord has been successful, I find that the Landlord is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$14,903.00**. Deducting the security deposit plus zero interest of **\$1,100.00** leaves **\$13,803.00** owed to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord effective two days after service on the Tenants. The Tenant must be served with this **Order of Possession**. Should the Tenant 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.

I order that the Landlord retain the **deposit** and interest of \$1,100.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining **\$13,803.00**. If necessary, this order may be filed in the Small Claims 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: March 17, 2021

Residential Tenancy Branch