



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPUM-DR, OPU-DR, FFL

Introduction

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

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

Both parties confirmed the landlord served the tenant in person on January 29, 2021 with the notice of hearing package and the submitted documentary evidence. Both parties confirmed the landlord submitted 6 duplicate evidence files and that only 5 document evidence files were being used. The tenant confirmed that no documentary evidence was submitted by the tenant. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that both parties has been properly served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 9, 2020 in person. The 10 Day Notice states in part that the tenant failed to pay rent of \$7,645.00 that was due on October 1, 2020 and provides for an effective end of tenancy date of October 30, 2020.

Both parties confirmed that the tenant has failed to pay rent for the period between November 1, 2019 to the date of this hearing. Both parties confirmed that a payment in full for February 2021 rent was made. The landlord stated that total rent owed as of the date of this hearing is \$11,120.00 but seeks a monetary claim for \$11,000.00.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

In this case, I accept the undisputed affirmed evidence of both parties and find that the tenant was properly served with the 10 Day Notice dated October 9, 2020. The tenant has provided undisputed evidence that rent was not paid as claimed by the landlord. The 10 Day Notice dated October 9, 2020 is upheld. The landlord is granted an order of possession to be effective two days after it is served upon the tenant as the effective end of tenancy date has now passed.

As for the monetary claim of \$11,000.00, both parties have confirmed in their direct testimony that no rent was paid for the period November 2019 to April 2021 with the exception of February 2021 at \$695.00 per month for 16 months. The landlord has established a claim for unpaid rent of \$11,000.00.

The landlord is entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlord is granted an order of possession.

The landlord is granted a monetary order for \$11,100.00.

These orders must be served upon the tenant. Should the tenant fail to comply with these orders, the orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court of British Columbia and enforced as orders of those Courts.

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 23, 2021

Residential Tenancy Branch