



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR-PP, OPRM-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 and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:40 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord had an agent speak on his behalf – CC.

The landlord entered written evidence from his agent and sworn testimony that he served the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) by sending it by registered mail on October 7, 2020. I am satisfied that the landlord's agent served this Notice to the tenant in accordance with section 88 of the *Act*. In accordance with section 90 of the *Act*, the 10 Day Notice was deemed served to the tenant on October 12, 2020, the fifth day after sending it by registered mail.

The landlord gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on January 29, 2021. The landlord entered into written evidence copies of the Canada Post Tracking Numbers, showing that his hearing package was sent to the tenant by Registered Mail. In accordance with sections 89 and 90 of the *Act*, I am satisfied that

the tenant was deemed served with the landlord's dispute resolution hearing packages on February 3, 2021,

Issues(s) to be Decided

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

Is the landlord entitled to a monetary award for unpaid rent?

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

Background and Evidence

The tenancy began on or about September 1, 2019. Rent in the amount of \$1230.00 is payable in advance on the first day of each month. At the outset of the tenancy the tenant paid a security deposit of \$600.00 which the landlord still holds. The tenant did not pay rent from April to August 2020 due to the COVID – 19 pandemic. The landlord and tenant entered into a repayment plan that was to commence on October 1, 2020 with the rent of \$1230.00 plus \$615.00 repayment for a total monthly payment of \$1845.00. The tenant failed to pay rent in the month(s) of October 2020 and on October 7, 2020 the landlord served the tenant with a notice to end tenancy. The tenant has not paid any rent or repayment since April 2020. The amount of unpaid rent as of this hearing is \$15,990.00. The landlord seeks an order of possession along with the monetary order for unpaid rent and the recovery of the filing fee.

Analysis

The tenant failed to pay their rent in full within five days of being deemed to have received the 10 Day Notice. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice.

In this case, this required the tenant to vacate the premises by October 22, 2020. As that has not occurred, I find that the landlord is entitled to a 2-day Order of Possession. The landlord is granted an Order of Possession pursuant to Section 55 of the *Act*, which must be served on the tenant(s). If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence provided by the landlord, I am satisfied that the tenant continues to owe the landlord unpaid rent. Although the landlord did not apply to retain the deposit, using the offsetting provision under Section 72 of the Act, I hereby apply the security deposit against the amount of unpaid rent.

Conclusion

The landlord has been successful as follows:

Item	Amount
Unpaid Rent April 2020 to April 2021	\$15,990.00
Filing Fee	100.00
Less Deposits	-600.00
Total Monetary Order	\$15,490.00

The landlord is granted an order of possession and a monetary order for \$15,490.00. The landlord may retain the security deposit.

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