



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ROYAL PACIFIC REALTY and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, OPR, 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;
- authorization to retain all or a portion of the tenants' security deposits (the deposit) in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:10 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord's agent 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 entered written evidence from his agent and sworn testimony from the agent that they posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on February 4, 2021. I am satisfied that the landlord's agent served this Notice to the tenants 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 February 7, 2021, the third day after its posting.

The landlord gave written evidence and sworn oral testimony from the agent that copies of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on February 27, 2021. The landlords agent entered sworn evidence of the Canada Post Tracking Numbers, showing that the hearing package sent to the tenant by

Registered Mail was delivered on March 1, 2021. In accordance with section 89 of the *Act*, I am satisfied that the tenant was duly served with the landlord's dispute resolution hearing package on March 1, 2021. The hearing proceeded and completed on this date.

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 retain all or a portion of the tenants' deposit in partial satisfaction of the monetary award requested?

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

Background and Evidence

The tenancy began on or about September 1, 2020. Rent in the amount of \$5900.00 is payable in advance on the first day of each month. The tenant paid a security deposit of \$2950.00 which the landlord still holds. The tenant failed to pay \$4800.00 of the rent for the month of February and on February 4, 2021 the landlord served the tenant with a notice to end tenancy. The landlord seeks the recovery of the unpaid amount of \$4800.00 for February's rent along with the filing fee of \$100.00. The landlord seeks an order of possession to end this tenancy.

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 tenants to vacate the premises by February 17, 2021. 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 tenants do 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 \$4800.00 in unpaid rent. Using the offsetting

provision under Section 72 of the Act, I hereby apply the \$2950.00 security deposit against the amount of unpaid rent. The landlord is entitled to the recovery of the \$100.00 filing fee as well.

Conclusion

Item	Amount
Unpaid Portion of February 2021 Rent	\$4800.00
Filing Fee	100.00
-Less Deposit	-2950.00
Total Monetary Order	\$1950.00

I grant the landlord an order under section 67 for the balance due of \$1950.00. 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 *Residential Tenancy Act*.

Dated: May 27, 2021

Residential Tenancy Branch