



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, reconvened from an ex parte Direct Request proceeding, dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover the filing fee pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served the tenant with the Interim Decision and Notice of Reconvened Hearing by registered mail sent on February 24, 2021. The landlord submitted a valid Canada Post tracking number as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on March 1, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

At the outset of the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure as additional rent coming due is reasonably foreseeable, I amend the landlord's Application to increase the landlord's monetary claim to \$9,000.00.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?
Is the landlord entitled to a monetary award as claimed?
Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This tenancy commenced on May 1, 2020. The monthly rent is \$1,500.00 payable on the first of each month.

The tenant did not pay rent for December 2020 and January 2021 and a 10 Day Notice to End Tenancy for Unpaid Rent was issued on January 11, 2021 for \$3,000.00 in unpaid rent. The 10 Day Notice was served on the tenant by registered mail sent on January 11, 2021. The landlord provided a valid Canada Post tracking receipt as evidence of service.

The tenant did not file an application to dispute the 10 Day Notice nor did they make any payment towards the rental arrear. The tenant has subsequently failed to pay any rent for the months of February, March, April and May 2021. The landlord submit that there is a rental arrear of \$9,000.00 as at the date of the hearing.

Analysis

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,500.00 pursuant to the signed tenancy agreement. I accept the undisputed testimony of the landlord that rent is due on the first of each month. I accept the evidence before me that the tenant failed to pay the full rent on December 1, 2020 and January 1, 2021 and there was a basis for the landlord to issue a 10 Day Notice. In accordance with sections 88 and 90 of the Act I find that the tenant is deemed served with the 10 Day Notice on January 16, 2021, five days after mailing.

I accept the landlord's evidence that the tenant did not pay the full amount of rent due within the 5 days of service granted under section 46(4) of the *Act* nor did they file an application to dispute the notice. Therefore, I find that the tenant is conclusively presumed to have accepted the tenancy ends on the corrected effective date of the 10 day Notice, January 26, 2021 pursuant to section 46(5) of the *Act*.

I therefore find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*. As the effective date of the notice has passed I issue an Order enforceable two days after service on the tenant.

I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$9,000.00. I issue a monetary award for unpaid rent owing of that amount as at May 18, 2021, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlord's favour in the amount of \$9,100.00. 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 *Residential Tenancy Act*.

Dated: May 18, 2021

Residential Tenancy Branch