



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, FFL, CNR-MT, FFT

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

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

The tenants applied for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 66;
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

The landlord attended the hearing via conference call and provided undisputed testimony. The tenants did not attend or submit any documentary evidence.

The landlord was 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.

The landlord stated that the tenants were served with the notice of hearing package and the submitted 6 documentary evidence by placing it on the floor against the door on April 29, 2021. The landlord stated that 5 additional documentary evidence files were also served to the tenants via email.

I accept the undisputed testimony evidence of the landlord and find that the tenants were served by leaving the notice of hearing package and the partially submitted documentary evidence on April 29, 2021. The landlord's remaining 5 documentary evidence served via email is excluded from consideration as this is currently not an accepted form of service and landlord did not provide any proof of service.

The landlord confirmed that he was emailed the tenant's notice of hearing package and was aware of the tenants' issues. The landlord stated that he was prepared to proceed. I find that despite the tenants serving the landlord via email, the landlord has confirmed receipt of the hearing package and is prepared to proceed.

At 28 minutes past the start of the scheduled hearing time, the tenants' application for dispute was dismissed without leave to reapply as the tenants have failed to attend, make submissions and participate in the hearing process and the landlord was prepared to respond.

Issue(s) to be Decided

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

Is the landlord entitled to 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 both the tenant's claim and the landlord's cross claim and my findings around each are set out below.

The landlord provided undisputed testimony that the tenants were served with a 10 Day Notice for Unpaid Rent (the 10 Day Notice) dated February 12, 2021 by placing it on the floor against the rental unit door on February 12, 2021. The 10 Day Notice states that the tenant failed to pay rent of \$2,400.00 that was due on February 1, 2021 and provides for an effective end of tenancy date of February 23, 2021.

The landlord stated that monthly rent is \$2,400.0 payable on the 1st day of each month. The landlord stated that no rent has been paid since the 10 Day Notice was served and the tenants still occupy the rental unit.

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 evidence of the landlord and find that a 10 Day Notice dated February 12, 2021 was served to the tenant placed on the floor against the rental unit door on February 12, 2021. I also accept the landlord's undisputed evidence that the tenants have not paid any rent since the notice was served. I find that the landlord's notice to end tenancy for unpaid rent is upheld and valid.

Pursuant to Section 55 (1) (b) of the Act, the landlord is granted an order of possession for unpaid rent. The order of possession shall be effective 2 days after it is served upon the tenants as the effective end of tenancy date has now passed.

The landlord is also 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 \$100.00.

These orders must be served upon the tenants. Should the tenants 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.

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 31, 2021

Residential Tenancy Branch