



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, OPRM-DR, FFL

Introduction

This hearing was reconvened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. The Interim Decision orders the Landlord to serve the Tenant with the interim decision dated March 12, 2021 (the “Interim Decision”) and notice of reconvened hearing within three days receipt of the Interim Decision. I accept the Landlord’s evidence that the Interim Decision was received by the Landlord on March 12, 2021 and was given to the Tenant on March 15, 2021 by registered mail in accordance with the Interim Decision. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the Interim Decision on March 20, 2021. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to unpaid rent and recovery of the filing fee?

Background and Evidence

The tenancy started on March 1, 2020. Rent of \$1,400.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$700.00 as a security deposit. The Tenant owed rental arrears of \$5,200.00 and failed to pay rent for January 2021. On January 8, 2021 the Landlord served the Tenant in person with a 10-day notice to end tenancy for unpaid rent (the "Notice"). The Notice sets out an effective date of January 18, 2021 and unpaid rent of \$6,600.00 due January 1, 2021. The Landlord is not sure if the Tenant is still in the unit as no keys have been returned and no contact has been made. The Tenant has not paid the rental monies set on the Notice and has not paid rent for February, March, April and May 2021. The Landlord claims unpaid rents to and including May 2021.

Analysis

Section 55(2) of the Act provides that where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired, a landlord may request an order of possession. Based on the undisputed evidence that the Tenant was given the Notice and did not dispute the Notice, I find that the Landlord is entitled to an order of possession. I grant the Landlord this order of possession effective two days after service of this order on the Tenant.

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement whether or not the landlord complies with this Act, the regulations or the tenancy agreement. Based on the undisputed evidence of unpaid rents to and including May 2021, I find that the Landlord has substantiated an entitlement to **\$12,200.00**. As the Landlord's claims have been successful, I find that the Landlord is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$12,300.00**. Deducting the security deposit plus zero interest of **\$700.00** leaves **\$11,600.00** owed by the Tenant.

Conclusion

I grant the Landlord an Order of Possession effective two days after service on the Tenant. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the Landlord retain the **deposit** and interest of \$700.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$11,600.00**. If necessary, 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 Act.

Dated: June 15, 2021

Residential Tenancy Branch