



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 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 deposit (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 tenants pursuant to section 72.

The tenants 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 entered written evidence from his agent and sworn testimony that his agent served the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) by registered mail on March 15, 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 tenants on March 20, 2021, the fifth day after being mailed.

The landlord gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package were sent to both tenants by registered mail on May 6, 2021. In accordance with sections 89 and 90 of the *Act*, I am satisfied that both tenants were deemed served with the landlord's dispute resolution hearing packages on May 11, 2021, five days after being mailed.

Preliminary Issue – Amend Application

Pursuant to section 64(3)(c) of the Act, the landlord amended the spelling of tenant PS. The name listed in this decision and order reflects the legal name of PS as per their driver's licence.

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 tenants?

Background and Evidence

The tenancy began on or about May 27, 2019. Rent in the amount of \$1095.00 is payable in advance on the first day of each month. The tenants paid a security deposit of \$547.00 which the landlord still holds. The tenants failed to pay rent in the month(s) of March 2021 and on March 15, 2021 the landlord served the tenants with a notice to end tenancy. The tenants further failed to pay rent in the month(s) of April. The landlord testified that the tenants paid March's rent at the end of April.

The landlord testified that the tenants have caught up in paying the rent but only did so just several days before this hearing. The landlord testified that the tenants were told numerous times that payment was for use and occupancy only and that the tenancy is not reinstated. The landlord testified that he spoke to the tenants ten minutes prior to this hearing and was advised that they are refusing to move. The landlord requests an order of possession.

Analysis

The tenants failed to pay their rent in full within five days of being deemed to have received the 10 Day Notices. The tenants have 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 March 30, 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.

The landlord is entitled to retain \$100.00 from the security deposit for the full recovery of the filing fee for this application.

Conclusion

The landlord is granted an order of possession.

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: June 18, 2021

Residential Tenancy Branch