



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AA Property Management Ltd. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes **OPC, FFL**

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenants 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 corporate 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 was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served each of the tenants with the notice of application and evidence by registered mail sent on April 9, 2021. The landlord submitted two valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the tenants are each deemed served with the landlord's materials on April 14, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee from the tenants?

Background and Evidence

The landlord gave undisputed evidence regarding the following facts. This periodic tenancy began on May 1, 2018. The current monthly rent is \$1,076.25 payable on the first of each month. A security deposit of \$525.00 was collected at the start of the tenancy and is still held by the landlord.

The landlord testified that the tenants have been late paying rent on multiple occasions most recently on November 1st 2020 December 1st 2020 and January 1st 2021. The landlord issued the 1 Month notice dated February 24th 2021 indicating the reason for the notice as the tenants have been repeatedly late paying rent.

The landlord served the 1 Month Notice by having an agent post on the rental unit door on February 26, 2021. A signed Proof of Service form was submitted into evidence. The landlord is unaware of the tenants filing any application to dispute the 1 Month Notice.

Analysis

In accordance with sections 88(g) of the *Act* a Notice to End Tenancy may be served by posting on the rental unit door. Pursuant to section 90(c) a document served by posting is deemed to be received on the third date after posting. Accordingly, I find the tenants are deemed served with the 1 Month Notice on March 1, 2021, three days after posting on February 26, 2021.

Section 47(5) of the *Act* provides that if a tenant does not make an application for dispute resolution within 10 days after the date the notice is received they are conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit.

I accept the evidence of the landlord that the tenants have not filed an application to dispute the 1 Month Notice within 10 days of March 1, 2021, or at all. Therefore, I find that the tenants are conclusively presumed to have accepted the notice.

I find that the 1 Month Notice complies with the form and content requirements of section 52 of the Act as it is dated and signed by the landlord, provides the address of the rental unit, the effective date and the reason for the tenancy to end.

I accept the undisputed evidence of the landlord that the tenants did not pay rent as required on November 1, 2020, December 1, 2020, January 1, 2021 or February 1, 2021.

As delineated in Residential Tenancy Policy Guideline 38, “three late payments are the minimum number sufficient to justify a notice under these provisions”.

Therefore, as I am satisfied that there have been at least three late payments during this tenancy to give rise to the issuance of the 1 Month Notice I find the notice complies with the form and content requirements of the *Act*.

Accordingly, I issue an Order of Possession to the landlord. As the effective date of the notice has passed, I issue an order effective 2 days after service.

As the landlord was successful in their application they are also entitled to recover their filing fee from the tenants. In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenants' security deposit in full satisfaction of this monetary award.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenants 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.

The security deposit for this tenancy is reduced by \$100.00 from \$525.00 to \$425.00.

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: July 26, 2021

Residential Tenancy Branch