



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

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

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

The Tenant did not attend the hearing. In the Interim Decision dated April 29, 2021, the Landlord was ordered to serve the Tenant with the Interim Decision and notice of reconvened hearing within 3 days of receipt of the Interim Decision. I accept the Landlord’s evidence that the Landlord received the Interim Decision on April 29, 2021 and that the Tenant was served with the Interim in person on the same date. 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?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy under a different landlord started on August 22, 2019. The current Landlord purchased the house containing the unit during the tenancy. Rent of \$1,100.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$550.00 as a security deposit. The Tenant failed to pay rent for March 2021 and on March 20, 2021 the Landlord served the Tenant in person with a 10-day notice to end tenancy for unpaid rent (the "Notice"). The effective date of the Notice is set out as March 30, 2021. The Tenant did not dispute the Notice, did not pay the unpaid rent of \$1,100.00 set out on the Notice within the time required and has not moved out of the unit. The Tenant paid no rent for April 2021 and in May 2021 the Tenant paid the Landlord \$1,700.00. The Landlord informed the Tenant at the time that if the Tenant paid its arrears and ongoing rent on time the Landlord would consider re-instating the tenancy. The Tenant has paid no further rental monies. The Landlord claims unpaid rent of 3,800.00 calculated as rents due for March to July 2021 inclusive of \$5,500.00 minus the \$1,700.00.

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 Landlord's undisputed evidence of having given the Tenant the Notice, that the Tenant did not dispute the Notice or pay the arrears set out in the Notice and that the Tenant has not moved out of the unit, I find that the Landlord has substantiated an entitlement to an order of possession.

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, I find that the Landlord has substantiated an entitlement to **\$3,800.00**.

As the Landlord's application has been successful, I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$3,900.00**. Deducting the security deposit of **\$550.00** plus zero interest from the Landlord's entitlement leaves **\$3,350.00** owed to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord **effective two days after its service on the Tenant**. 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 \$550.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$3,350.00**. 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: July 20, 2021

Residential Tenancy Branch