



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL-S, FFL

Introduction

The landlord filed an Application for Dispute Resolution (the “Application”) on April 30, 2021 seeking an order of possession for the rental unit, to recover the money for unpaid rent, and to recover the filing fee for the Application. The matter proceeded by way of a hearing on pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on September 3, 2021. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the telephone conference call hearing; the tenant did not attend.

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the tenant with this Notice of Dispute Resolution Proceeding. This means the landlord must provide proof that the document was served in a method allowed under s. 89(2) of the *Act*, and I must accept that evidence.

The landlord provided evidence that they used registered mail for this purpose. This is a registered mail receipt showing they sent this on May 13, 2021. Based on this evidence, I accept they served the tenant notice of this hearing and their Application in a manner complying with s. 89(2)(b) of the *Act*, and the hearing proceeded in the tenant’s absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to s. 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to s. 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section.

The landlord spoke to the basic terms of the tenancy agreement. The tenancy began in 2005. More recently, the rent amount up until April 2021 was \$375; in April, this increased to \$494. The tenant initially paid a security deposit amount of \$387.50.

The landlord applied for an Order of Possession pursuant to the 10-Day Notice to End Tenancy for Unpaid Rent (the "10-Day Notice"). They presented that an agent for the landlord served this to the tenant on March 15, 2021, attached to the door of the rental unit. The landlord provided this description of service on the completed Proof of Service document. A witness signed the document to attest to the fact that they observed the landlord service this document.

The 10-Day Notice states that the tenant had five days from the date received to pay the rent in full or apply for dispute resolution, or the tenancy would end on the vacancy date indicated, March 31, 2021.

The reason for the landlord serving the 10 Day Notice is accumulated unpaid rent, this was for \$1,125 due on March 1, 2021.

They also applied for a monetary order for \$1,125 in unpaid rent for January, February, and March 2021. The amount is verified through the tenant ledger they included in the evidence. In the hearing, the landlord provided that from April 2021 onwards, the tenant has been paying monthly rent in the correct amount. The amount of money they claim here is for the tenant's rent amounts still outstanding.

Analysis

From the testimony of the landlord, I am satisfied that a tenancy agreement was in place. They provided the specific terms of rental payment and amount. The tenant did not attend the hearing; therefore, there is no evidence before me to show otherwise.

I accept the undisputed evidence before me that the tenant failed to pay the rent owed in full by March 1, 2021, within the five days granted under s. 46(4) of the *Act*. Accounting for three

days' of deemed service in this situation, the tenant did not dispute the 10-Day Notice within that five-day period from March 18, 2021.

Based on the foregoing, I find that the tenant is conclusively presumed under s. 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, March 31, 2021.

The landlord provided testimony and evidence on the account in question and the accumulation of the amount. As presented, I find the amount of \$1,125 is accurate. This is three months of rent at the previously-set-rate of \$375 per month.

I find the landlord is entitled to an Order of Possession as well an award for the unpaid rent amount of \$1,125. The landlord requested an end-of-tenancy date of September 30, 2021, based on the tenant's present circumstances of which the landlord is aware.

The *Act* s. 72(2) gives an arbitrator the authority to make a deduction from the security deposit held by the landlord. The landlord has established a claim of \$1,125. After setting off the security deposit, there is a balance of \$737.50. I am authorizing the landlord to keep the security deposit amount and award the balance of \$737.50 as compensation for the December 2019 and January 2020 rent amounts.

As the landlord is successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

For the reasons above, I grant an Order of Possession to the landlords effective 1:00 p.m. on September 30, 2021. The landlord must service this Order of Possession on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to s. 67 and s. 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$837.50 for rent owed for January through to March 2021 and a recovery of the filing fee for this hearing application. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 s. 9.1(1) of the *Act*.

Dated: September 03, 2021

Residential Tenancy Branch