



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BIDWELL PROJECTS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNRL, FFL

Introduction

This matter proceeded by way of an ex parte Direct Request Proceeding pursuant to section 55(4) of the Residential Tenancy Act (the Act) and dealt with an Application for Dispute Resolution filed by the Landlord for an order of possession and a monetary order based on unpaid rent, and an order granting recovery of the filing fee.

GB attended the hearing on behalf of the Landlord and provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlord, GB testified that the Landlord served the Tenant with the Notice of Dispute Resolution Proceeding and supporting evidence by registered mail on October 22, 2021. Copies of Canada Post registered mail receipts confirming the date and time of purchase and including the tracking number were submitted in support. Pursuant to sections 89 and 90 of the Act, I find these documents are deemed to have been received by the Tenant on October 27, 2021, five days after they were mailed.

At the beginning of the hearing, GB was advised that Rule of Procedure 6.11 prohibits the recording of dispute resolution hearings. GB confirmed that the hearing was not being recorded.

GB was given the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent pursuant to sections 46 and 55 of the Act?
2. Is the Landlord entitled to a monetary order for unpaid rent pursuant to section 67 of the Act?
3. Is the Landlord entitled to recover the filing fee for this application pursuant to section 72 of the Act?

Background and Evidence

On behalf of the Landlord, GB confirmed that the tenancy began on June 1, 2014, that rent in the amount of \$925.00 per month is due on the first day of each month, and that the Tenant did not pay a security deposit or a pet damage deposit. A copy of the tenancy agreement between the parties was submitted into evidence.

GB testified the Tenant has not paid rent when due. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated October 4, 2021, for \$6,787.50 in unpaid rent (the 10 Day Notice). A Statement of Rent Arrears was submitted in support of outstanding rent.

GB testified the 10 Day Notice was served on the Tenant by registered mail on October 4, 2021. Service in this manner was supported by Canada Post registered mail receipts confirming the date and time of purchase and including the tracking number.

Further, GB confirmed that rent has not been paid in full since the 10 Day Notice was issued. Specifically, GB testified the Landlord received only \$700.00 in each of November 2021, December 2021, January 2022, and February 2022, leaving an addition \$900.00 unpaid to date $((\$925.00 - \$700.00) \times 4 \text{ months} = \$900.00)$. As of the date of this decision, rent in the amount of \$7,687.50 remains outstanding $(\$6,787.50 + \$900.00 = \$7,687.50)$.

GB confirmed that the Tenant continues to occupy the rental unit.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

The Landlord sought an order of possession. In this case, I find that the 10 Day Notice was served on the Tenant by registered mail on October 4, 2021. Pursuant to sections 88 and 90 of the Act, documents served in this manner are deemed to be received five days later. Therefore, I find the 10 Day Notice is deemed to have been received by the Tenant on October 9, 2021. Accordingly, pursuant to section 46(4) of the Act, the Tenant had until October 14, 2021, to either pay rent in full or to dispute the 10 Day Notice by filing an application for dispute resolution. I find that the Tenant did neither.

I also find the 10 Day Notice complies with the form and content requirements of section 52 of the Act.

Pursuant to section 46(5) of the Act, I find the Tenant is conclusively presumed to have accepted the tenancy ended on October 19, 2021 and must vacate the rental unit. Therefore, I find the Landlord is entitled to an order of possession, which will be effective two days after it is served on the Tenant.

Further, I find the Landlord has established an entitlement to unpaid rent in the amount of \$7,687.50 to February 28, 2022. The Landlord remains at liberty to reapply for any additional unpaid rent or other losses under the Act.

Having been successful, I also find the Landlord is also entitled to recover the \$100.00 filing fee paid to make the Application.

Conclusion

The Landlord is granted an order of possession which will be effective two days after it is served on the Tenant. The order of possession must be served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$7,787.50. The monetary order must be served on the Tenant. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: February 28, 2022

Residential Tenancy Branch