



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC EDGE PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR-DR, OPR-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 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:10 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The agent entered written evidence and sworn testimony that they posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on November 2, 2021 in the presence of a witness. I am satisfied that the landlord's agent served this Notice to the tenant 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 tenant on November 5, 2021, the third day after its posting.

The agent gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on January 21, 2022. The landlord entered written evidence copies of the Canada Post Tracking Numbers. In accordance with sections 89 and 90 of the *Act*, I am satisfied that the tenant was deemed served with the landlord's dispute resolution hearing package on January 26, 2022, five days after mailing.

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 recover the filing fee for this application from the tenants?

Background and Evidence

The tenancy began on or about August 1, 2016. Rent in the amount of \$890.00 is payable in advance on the first day of each month. The tenant paid a security deposit of \$425.00 which the landlord still holds. The tenant failed to pay rent in the month(s) of November 2021 and on November 2, 2021 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of December 2021 to April 2022, inclusive. The agent advised that as of today's hearing the amount of unpaid rent is \$5340.00.

Analysis

The tenant failed to pay their rent in full within five days of being deemed to have received the 10 Day Notice. The tenant has 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 tenant to vacate the premises by November 15, 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.

Based on the undisputed evidence provided by the landlord, I am satisfied that the tenant continues to owe the landlord unpaid rent. Although the landlord has not applied to retain the security deposit, using the offsetting provision under Section 72 of the *Act*, I hereby apply the security deposit against the amount of unpaid rent. The landlord is also entitled to the recovery of the \$100.00 filing fee for a total award of \$5440.00.

Conclusion

The landlord has established a claim for \$5440.00. I order that the landlord retain the \$425.00 security deposit in partial satisfaction of the claim, and I grant the landlord an order under section 67 for the balance due of \$5015.00. 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 *Residential Tenancy Act*.

Dated: April 07, 2022

Residential Tenancy Branch