



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, FFL

Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on March 3, 2022 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 pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on June 23, 2022. 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.

Preliminary Matter – Landlord notice to the Tenant

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 testimony and evidence that they used registered mail for this purpose. They included a registered mail receipt in the evidence to show they sent this on March 18, 2022. They confirmed the Tenant still resides in the rental unit, and that the package containing the notice of this hearing, and the Landlord’s evidence, was delivered.

Based on the submissions of the Landlord, 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

The Landlord spoke to the terms of the tenancy agreement, a copy of which they provided in their evidence. The tenancy began on August 8, 2020, with the rent amount of \$1,150 payable on the first of each month. The rent has not increased since the start of the tenancy. The Landlord and the Tenant signed the agreement on August 8, 2020.

The Landlord applied for an Order of Possession pursuant to a 10-Day Notice to End Tenancy for Unpaid Rent (the "10-Day Notice"). They issued one notice for each consecutive month since January 2022. They served the most recent 10-Day Notice to the Tenant via registered mail on June 3, 2022. This was for the full rent amount of that month.

The Landlord provided the prior month 10-Day Notice for the full amount of May rent. The Tenant paid \$250 of that on June 7. This brings the rent balance amount owing by the Tenant to \$2,050; that is 2 months of rent, minus \$250 paid on June 7.

The 10-Day Notice for June 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, June 18, 2022.

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 did not pay the rent owed in full by June 13, 2022, within the five days granted under 46(4) of the *Act*, as calculated from the deemed service date of registered mail of June 8 as per s. 90(a). The Tenant did not dispute the 10-Day Notice within that five-day period.

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, June 18, 2022.

The Landlord provided testimony and evidence on the account in question and the accumulation of the amount. As presented, I find the amount \$2,050 is owed to the Landlord. By Rule 4.2 of the *Residential Tenancy Branch Rules of Procedure*, I accept the Landlord's amendment to their Application. The Tenant did not attend the hearing; therefore, there is no evidence to the contrary on this exact amount owing.

The hearing itself was scheduled on June 23, 2022, and the agent of the Landlord stated that the Tenant was still living in the rental unit on that date. The Tenant has been overholding since the effective date of the end of tenancy, June 18, 2022.

I find the Landlord is entitled to an Order of Possession as well an award for the unpaid rent amount of \$2,050. 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

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. Should the Tenant fail to comply with this Order, the Landlord may file this Order in the Supreme Court of British Columbia, where it may be enforced as an Order of that court.

Pursuant to s. 67 and s. 72 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$2,150 for rent owed for May through to June 2022 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: June 23, 2022

Residential Tenancy Branch