



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

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

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

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing (the “Hearing Package”) by registered mail on October 24, 2022 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the Hearing Package on October 19, 2022. 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, unpaid rent and recovery of the filing fee?

Background and Evidence

The tenancy started in November 2021. Rent of \$2,700.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected a security deposit of \$1,350.00. the Tenant failed to pay rent and on August 10, 2022 the Landlord served

the Tenant with a 10 day notice to end tenancy for unpaid rent dated August 10, 2022 (the "Notice") by registered mail. The Notice sets out unpaid rent of \$17,121.00. The Tenant did not dispute the Notice and has not moved out of the unit. The Tenant has not paid the outstanding arrears on the Notice and has paid no rent since. The Landlord claims unpaid rent to January 15, 2023.

Analysis

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 Landlord's undisputed evidence of unpaid rents to and including January 15, 2022 I find that the Landlord is entitled to **\$29,271.00**.

Section 55(2)(b) of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution 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. Based on the Landlord's undisputed evidence that the Tenant was given the Notice and neither disputed it or paid the outstanding rent I find that the Landlord is entitled to an order of possession.

As the Landlord has been successful with its claims I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$29,373.00**. Deducting the security deposit plus zero interest of **\$1,350.00** from this amount leaves **\$28,021.00** owed to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord effective two days after its service on the Tenant. The Tenant must be served with this **Order of Possession**. 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 \$1,350.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$28,021.00**. 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: January 10, 2023

Residential Tenancy Branch