



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. A Monetary Order for unpaid rent - Section 67;
2. An Order of Possession - Section 55; 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, notice of hearing and evidence *in person on January 5, 2023* in accordance with Section 89 of the Act. 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 and a monetary order for unpaid rent?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started at some time prior to the Landlord purchasing the house. The Landlord resides in the upper part of the house and the Tenant rents a room in the lower part of the house that includes a kitchen and bathroom that is not shared with the Landlord. Rent of \$520.00 is payable on the first day of each month. The Landlord is not holding a security or pet deposit. The Tenant owed rental arrears and failed to pay rent for December 2022 and on December 15, 2022 the Landlord gave the Tenant in person a 10 day notice to end tenancy for unpaid rent dated December 15, 2022 (the

“Notice”). The Tenant has not disputed the Notice, has not moved out of the unit and has not paid rent for January and February 2023. The Landlord asks for an order of possession effective as soon as possible and a monetary order for unpaid rents.

Analysis

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 where 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 undisputed evidence that the Tenant was given the Notice, did not dispute the Notice, and did not move out of the unit I find that the Landlord is entitled to an order of possession as requested.

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 undisputed evidence of unpaid rent I find that the Landlord is entitled to the unpaid rent of **\$4,680.00** as stated on the Notice and for unpaid rent of **\$520.00 for each of January and February 2023** rent.

As the Landlord claims have been successful I find that the Landlord is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$5,820.00**.

Conclusion

I grant the Landlord an order under Section 67 of the Act for **\$5,820.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

I grant an Order of Possession to the Landlord effective two days after service of the Order of Possession. 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.

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: February 23, 2023

Residential Tenancy Branch