

DECISION

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice) under sections 46 and 55 of the Act
- a Monetary Order for unpaid rent under section 67 of the Act
- authorization to recover the filing fee for this application from the tenant under section 72 of the Act

Service

The landlord attended the hearing while the tenant did not. The landlord testified under oath that they served a *Notice of Dispute Resolution Proceeding* on the tenant by registered mail. There is proof of tracking information submitted into evidence. It is my finding that the tenant was served with the required notice in compliance with the Act.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the Notice?

Is the landlord entitled to a Monetary Order for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that this tenancy began on February 15, 2023, with a monthly rent of \$3,100.00, due on the first day of the month, with a security deposit in the amount of \$1,550.00 and a pet damage deposit in the amount of \$1,550.00.

The landlord served the Notice on April 2, 2023, by delivering to the tenant in person, who was present to receive it. Page two of the Notice indicates that the tenant did not pay rent in the amount of \$6,200.00 that was due on April 1, 2023. All pages of the Notice were served and submitted into evidence. The tenant has not disputed the Notice and the landlord seeks an order of possession.

The landlord affirmed that the tenant is currently \$18,600.00 in arrears, representing unpaid rent from March 2023 to the present.

Analysis

Section 26 of the Act requires tenants to pay rent the day it is due unless they have a legal right to withhold rent. Section 46(1) of the Act allows landlords to end a tenancy with a *10 Day Notice to End Tenancy for Unpaid Rent* on any day rent remains unpaid after the day rent is due.

Section 55(2)(b) of the Act permits a landlord to request an order of possession when a notice to end the tenancy has been given by the landlord, the tenant has not made an application to dispute the notice, and the time for making any such application has expired.

In this case, the landlord served the Notice in accordance with the Act. Further, I find that the Notice complies with section 52 of the Act, and the tenant has not made an application to dispute the Notice. As such, it is my finding that the landlord has proven on a balance of probabilities that they are entitled to an order of possession.

A copy of the order of possession is issued with this Decision to the landlord. The landlord must serve a copy of the order of possession upon the tenant.

Since the application relates to a section 46 notice to end tenancy, the landlord is entitled to an order for unpaid rent under section 55 of the Act. Therefore, the tenant is ordered to pay \$18,600.00 in unpaid rent to the landlord.

Conclusion

I grant an Order of Possession to the landlord **effective two (2) days after service of this Order on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I grant the landlord a Monetary Order in the amount of **\$18,700.00** under the following terms:

| Monetary Issue | Granted Amount |
|--|--------------------|
| a Monetary Order for unpaid rent under section 55 of the Act | \$18,600.00 |
| authorization to recover the filing fee for this application from the tenant under section 72 of the Act | \$100.00 |
| Total Amount | \$18,700.00 |

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 section 9.1(1) of the *Residential Tenancy Act*.

Dated: August 23, 2023

Residential Tenancy Branch