



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT
COMMISSION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: FFL MNRL-S OPR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession 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, pursuant to section 72 .

While the landlord's agent JS ("landlord") attended the hearing by way of conference call, the tenant did not. I waited until 11:10 a.m. to enable the tenants to participate in this scheduled hearing for 11:00 a.m. The landlord's agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

The landlord testified that the tenants were served with the landlord's application for dispute resolution hearing package on July 25, 2019 by way of registered mail. The landlord provided tracking number in their evidentiary materials. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenants deemed served with the landlord's application and evidence on July 30, 2019, five days after its registered mailing.

The landlords testified that the tenants were served with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated June 11, 2019 ("10 Day Notice"), by way of regular mail to the tenants' residence. In accordance with sections 88 and 90 of

the *Act*, I find that the tenants deemed served with the landlord's 10 Day Notice on June 16, 2019, 5 days after its posting.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to monetary compensation for unpaid rent?

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

Background and Evidence

The landlord testified regarding the following facts. This month-to-month tenancy began in June of 2013. Monthly rent is currently set at \$945.00, payable on the first of every month. The landlord had collected, and still holds, a security deposit in the amount of \$425.00.

The tenants were served with a 10 Day Notice dated June 11, 2019 for failing to pay all the outstanding rent for this tenancy. The landlord testified that the tenants had made two payments since the 10 Day Notice was issued. The tenants paid \$945.00 on August 19, 2019, and another \$945.00 on September 10, 2019. The landlord confirmed that the tenants still owe \$780.00 in outstanding rent for this tenancy, and is seeking a monetary order for this amount, as well as an Order of Possession, and recovery of the filing fee.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenants did not attend.

A copy of the 10-Day Notice was submitted for this hearing, and I find that the landlord's 10 Day Notice complies with section 52 of the *Act*, which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

The tenants failed to pay the rent in full, within five days of being deemed to have received the 10 Day Notice. The tenants did not make an 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 failure of the tenants to take either of the above actions within five days led to the end of this tenancy on June 26, 2019, the effective date on the 10 Day Notice. In this case, this required the tenants and anyone on the premises to vacate the premises by June 26, 2019. As the tenants have not vacated the rental unit, I find that the landlord is entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act*.

The landlord provided undisputed evidence that the tenants failed to pay the outstanding rent in the amount of \$780.00. Therefore, I find that the landlord is entitled to \$780.00 in outstanding rent for this tenancy.

The landlord continues to hold the tenants' security deposit of \$425.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenants' security deposit in partial satisfaction of the monetary claim.

As the landlord was successful in their application, I find that the landlord is entitled to recover the filing fee for this application.

Conclusion

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant**. Should the tenants 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 issue a \$455.00 Monetary Order in favour of the landlord, which allows the landlord to recover unpaid rent, the filing fee for this application, and also allows the landlord to retain the tenants' security deposit in partial satisfaction of the monetary claim.

Item	Amount
Unpaid Rent	\$780.00
Recovery of Filing Fee for this Application	100.00
Security Deposit Deposit	-425.00
Total Monetary Order	\$455.00

The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) 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: September 24, 2019

Residential Tenancy Branch