



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The landlord gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on January 8, 2020. The landlord entered into written evidence copies of the returned envelopes, including the Canada Post Tracking Numbers, showing that their hearing package sent to the tenant by Registered Mail was unclaimed by the tenant. I find that the landlord acted in accordance with sections 89 and 90 of the *Act*, accordingly; the hearing proceeded and completed in the absence of the tenant.

Issue(s) to be Decided

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

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

Background and Evidence

The landlord gave the following undisputed testimony. The tenancy began on or about May 1, 2019. Rent in the amount of \$850.00 is payable in advance on the first day of each month. The tenant paid a \$425.00 security deposit which the landlord still holds. The tenant failed to pay rent in the month(s) of September 2019 to December 2019. On December 12, 2019 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of January 2020 to March 2020. The

landlord advised that as of today's hearing the amount of unpaid rent is \$5170.00. The landlord requests an order of possession and the recovery of the \$100.00 filing fee.

Analysis

The tenant failed to pay their rent in full within five days of being deemed to have received the 10 Day Notice. The tenant has not made 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 tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice.

As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord is granted an Order of Possession pursuant to Section 55 of the *Act*, which must be served on the tenant(s). If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

The landlord is also entitled to retain \$100.00 from the security deposit for full recovery of the filing fee.

Conclusion

The landlord is granted an order of possession. The tenancy is terminated.

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: March 06, 2020

Residential Tenancy Branch