



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, FF

Introduction:

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the fee for filing an Application for Dispute Resolution.

The Agent for the Landlord stated that the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were sent to each Tenant at the rental unit, via registered mail, on July 22, 2013. The Landlord submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however neither Tenant appeared at the hearing.

The Landlord submitted a receipt to the Residential Tenancy Branch on August 02, 2013. The Agent for the Landlord stated that the receipt was served to the Tenant, in person, on August 02, 2013. In the absence of evidence to the contrary I accept that the document was served and I accept it as evidence for these proceedings.

The Agent for the Landlord stated that the Application for Dispute Resolution was amended on August 05, 2013 to include a claim for unpaid rent from August of 2013, in the amount of \$400.00. She stated that the amended Application for Dispute Resolution was personally served to the Tenant on August 05, 2013. Although I do not have a copy of the amended Application for Dispute Resolution I find it reasonable to allow the amendment at the hearing. I find that the Tenant should understand, even if an amended Application for Dispute Resolution was not served to the Tenant, that the Landlord would be seeking all rent that is due, including rent that became due after the Landlord filed the Application for Dispute Resolution.

Issue(s) to be Decided:

Is the Landlord entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent?

Background and Evidence:

The Agent for the Landlord stated that this tenancy began on March 01, 2013; that the Tenant is required to pay monthly rent of \$800.00 by the first day of each month; that the Tenant only paid \$400.00 of the rent that was due for July of 2013; that on August 02, 2013 the Tenant paid \$400.00 in rent for August; and that the Tenant still owes \$800.00 in rent. A copy of a tenancy agreement was submitted in evidence.

The Agent for the Landlord stated that she put a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of July 15, 2013, on the door of the rental unit on July 02, 2013. The Notice declared that the Tenant owed \$400.00 in rent that was due on July 01, 2013.

Analysis

Based on the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$800.00 by the first day of each month; that the Tenant did not pay \$400.00 of the rent that was due for July of 2013; and that the Tenant only paid \$400.00 in rent for August of 2013. As the Tenant was required to pay rent of \$800.00 on July 01, 2013, I find that the Tenant must pay \$400.00 in rent to the Landlord for July.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 46 of the *Act*. In the absence of evidence to the contrary, I find that a Notice to End Tenancy, served pursuant to section 46 of the *Act*, was posted at the rental unit on July 02, 2013 and that this Notice declared that the Tenant must vacate the unit by July 15, 2013. A document that is posted on July 02, 2013 is deemed received on July 05, 2013.

Section 46 of the *Act* stipulates that a tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice to End Tenancy if the tenant does not either pay the outstanding rent or file an Application for Dispute Resolution to dispute the Notice within five days of receiving the Notice to End Tenancy. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy ended on July 15, 2013. On this basis I find that the Landlord is entitled to an Order of Possession.

As the Tenant did not vacate the rental unit by July 15, 2013, I find that the Tenant is obligated to pay rent, on a per diem basis, for the days the Tenant remained in possession of the rental unit. As the Tenant has already been ordered to pay rent for

the period between July 15, 2013 and July 31, 2013, I find that the Landlord has been fully compensated for that period. I find that the Tenant must also compensate the Landlord for the 21 days in August that the Tenant has remained in possession of the rental unit, at a daily rate of \$25.81, which equates to \$542.01. As the Tenant has already paid \$400.00 in rent for August, I find that the Tenant owes an additional \$142.01 in rent for the period ending August 21, 2013.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$592.01, which is comprised of \$542.01 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for this amount. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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 *Residential Tenancy Act*.

Dated: August 21, 2013

Residential Tenancy Branch

