



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Fraser Valley Kinsmen Housing Society and Terra Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession for unpaid rent, a monetary Order for unpaid rent and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matters

The application was amended to increase the monetary claim to include unpaid rent to February 2014.

Issue(s) to be Decided

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

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

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced on November 9, 2011; subsidized rent is \$257.00 per month, due in advance on or before the first day of each calendar month. Parking in the sum of \$25.00 is also owed each month

The tenant confirmed receipt of a 10 day Notice ending tenancy for unpaid rent or utilities, issued on December 3, 2013, which had an effective date of December 16, 2013. The tenant received the notice on the date it was posted to her door; December 3, 2013.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$564.00 within 5 days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within 5 days.

The tenant confirmed she has not paid rent since November 2013 and that rent owed each month to February 2014, inclusive, was \$257.00 each month.

Analysis

Section 46(1) of the Act stipulates that a 10 day Notice ending tenancy is effective 10 days after the date that the tenant receives the Notice. As the tenant is deemed to have received this Notice on December 3, 2013, I find that the effective date of the Notice was December 16, 2013; the date on the Notice.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice ending tenancy that required the tenant to vacate the rental unit on December 16, 2013, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has 5 days from the date of receiving the Notice ending tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenant exercised either of these rights; therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended on the effective date of the Notice; December 16, 2013. The tenant has confirmed no rent has been paid since October 2013.

In the absence of evidence to the contrary, I find that the tenant has not paid rent in the amount of \$1,028.00 from November 2013 to February 2014, inclusive, and that the landlord is entitled to compensation in that amount.

I find that the landlord's application has merit and, pursuant to section 72 of the Act that the landlord is entitled to recover the \$50.00 filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord has been granted an Order of possession that is effective 2 days after service to 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.

Therefore, the landlord has established a monetary claim, in the amount of \$1,078.00, which is comprised of unpaid rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord did not apply requesting compensation for late fees.

Conclusion

The landlord is entitled to an Order of possession and monetary Order for unpaid rent.

The landlord is entitled to filing fee costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 03, 2014

Residential Tenancy Branch

