



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding D'VENETO DEVELOPMENTS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

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;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 0942 in order to enable the tenant to connect with this teleconference hearing scheduled for 0930. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The agent testified that he served the tenant with the dispute resolution package on 23 February 2015 by registered mail. The agent provided me with a Canada Post tracking number. On the basis of this evidence, I am satisfied that the tenant was deemed served with dispute resolution package pursuant to sections 89 and 90 of the Act.

The agent testified that he served the tenant with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) on 8 February 2015 by posting the notice to the tenant's door. The landlord provided me with a witnessed proof of service document. On the basis of this evidence, I am satisfied that the tenant was served with 10 Day Notice pursuant to sections 88 and 90 of the Act.

Preliminary Issue – Amendment to Landlord's Application

Paragraph 64(3)(c) allows me to amend an application for dispute resolution.

At the hearing, the landlord asked to amend this application to include unpaid rent for March. As the tenant reasonably ought to have known that these amounts were owed if he continued to occupy the rental unit, I have allowed the amendment as there is no undue prejudice to the tenant.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to recover its filing fee from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the landlord, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

In November 2014, the tenant began occupying the rental unit. The parties entered into a written tenancy agreement on 6 November 2014. The agreement purported to cover a fixed-term tenancy that began 7 November 2014 and continued until 31 May 2015. Monthly rent is \$1,000.00. The agent testified that the landlord did not collect a security deposit from the tenant.

The tenant originally offered to pay rent for the entire term at the beginning of the tenancy, that is, \$7,000.00. The tenant paid \$2,990.00 towards the term. The agent testified that the tenant and landlord agreed to collect the remaining rent monthly on the first.

On 8 February 2015, the landlord issued the 10 Day Notice to the tenant. The 10 Day Notice was dated 8 February 2015 and set out an effective date of 21 February 2015. The 10 Day Notice set out that the tenant failed to pay \$1,000.00 in rent that was due on 1 February 2015.

The agent testified that the landlord has not received any payments from the tenant since the 10 Day Notice was issued. The agent testified that, to the best of his knowledge, the tenant continues to occupy the rental unit.

The landlord claims for \$2,050.00:

Item	Amount
Unpaid February Rent	\$1,000.00
Unpaid March Rent	1,000.00
Filing Fee	50.00
Total Monetary Order Sought	\$2,050.00

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

The tenant failed to pay the outstanding rent within five days of receiving the 10 Day Notice. The tenant has not made application pursuant to subsection 46(4) of the Act within five days of receiving the 10 Day Notice. In accordance with subsection 46(5) of the Act, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by 21 February 2015. As that has not occurred, I find that the landlord is entitled to a two-day order of possession.

The agent has provided sworn and uncontested testimony that the tenant has unpaid rental arrears totaling \$2,000.00. I find that the landlord has proven its entitlement to the rent arrears. The landlord is entitled to a monetary order for the unpaid rent.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$2,050.00 under the following terms:

Item	Amount
Unpaid February Rent	\$1,000.00
Unpaid March Rent	1,000.00
Filing Fee	50.00
Total Monetary Order	\$2,050.00

The landlord is provided with these orders in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) fail to comply with these orders, these orders may be filed in the Small Claims Division of the Provincial Court and enforced as orders of that Court.

The landlord is provided with a formal copy of an order of possession. Should the tenant(s) fail to comply with this order, this order may be filed and enforced as an order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: March 23, 2015

Residential Tenancy Branch

