



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VICTORIA COOL AID SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction, Preliminary and Procedural Matters-

The landlord's application was originally conducted by way of a direct request proceeding, pursuant to section 55(4) of the Residential Tenancy Act ("Act"), via the documentary submissions only of the landlord, requesting an order of possession for the rental unit due to unpaid rent and a monetary order for unpaid rent.

On May 12, 2015, an adjudicator of the Residential Tenancy Branch ("RTB") issued an Interim Decision on the landlord's application, which stated that the landlord had not supplied adequate accounting records to support the amount of unpaid rent listed on the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("Notice"), the basis of their application. In the Decision of May 12, 2015, the adjudicator ordered the direct request proceeding to be reconvened to a hearing in order to hear from the landlord as to make a determination of the issues had by the adjudicator, in order to make findings on the landlord's application for dispute resolution under the direct request process.

This was that participatory hearing.

In the Interim Decision of May 12, 2015, the adjudicator ordered the landlord to serve the tenants with the notice of the reconvened hearing and all required documents within three days of the receiving the Decision in accordance with section 89 of the Act. At this participatory hearing, the landlord's agent (hereafter "landlord") attended; however, the tenants did not attend. In response to my question, the landlord submitted that each tenant was served notice of this participatory hearing and the required documents in person, by hand delivery.

Based upon the landlord's submissions, I find the landlord complied with the directive of the adjudicator in the Interim Decision to serve the tenants, and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present his evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

At the hearing, the landlord submitted that the landlord now wants only an order of possession for the rental unit and not the monetary order. I have therefore amended the landlord's application and excluded that request.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit?

Background and Evidence

In the Interim Decision of May 12, 2015, the adjudicator provided the details of this tenancy, and that decision is incorporated by reference herein. At issue for the adjudicator is whether the amount of unpaid rent listed on the landlord's Notice was strictly for unpaid rent or did that amount include an expense for a meal plan.

The landlord's undisputed evidence shows that the tenants were served the Notice on April 23, 2015, by personal service to tenant "BB", listing \$2,486.27 in unpaid rent due up to April 1, 2015, with a stated effective vacancy date of May 3, 2015.

The Notice informed the tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenants had five days to dispute the Notice by making an application for dispute resolution.

At this hearing, the landlord submitted that the tenants failed to pay their monthly rent of \$510.00 for October, November and December 2014, and April 2015, and that the unpaid rent for those months, exclusive of the meal plan fee of \$200.00 per month, was \$2040.00. The landlord submitted further that the tenants has entered into a payment plan with the landlord, but failed to comply with the terms of the plan, resulting in the issuance of the Notice.

I have no evidence that the tenants have filed an application in dispute of the Notice.

Analysis

I find the landlord submitted sufficient evidence to prove that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, did not pay the outstanding rent or any rent since the Notice was served on them, or file an application for dispute resolution in dispute of the Notice. I find the tenants are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, in this case May 3, 2015.

I therefore find that the landlord is entitled to and I grant an order of possession for the rental unit effective 2 days after service of the order upon the tenants.

The order of possession is enclosed with the landlord's Decision. Should the tenants fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

Conclusion

The landlord's application for an order of possession for the rental unit has been granted.

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: June 29, 2015

Residential Tenancy Branch

