



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes:

OPR, MNR, MNSD, MNDC, 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, late fees and parking; to retain the security deposit 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.

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, fees and parking?

May the landlord retain the security deposit paid by the tenant?

Background and Evidence

The tenancy commenced on September 17, 2014. Rent is currently \$891.75 per month, due on or before the first day of each month. The tenant signed a parking addendum imposing a \$25.00 per month fee. The landlord is holding a security deposit in the sum of \$435.00. A copy of the tenancy agreement was supplied as evidence.

There was no dispute that on January 5, 2016 the tenant received a 10 day Notice ending tenancy for unpaid rent or utilities, which had an effective date of January 18, 2016.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$891.75 within five 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 paid the rent or filed an Application for Dispute Resolution within five days.

The tenant confirmed that he did not pay all of the January 2016 rent owed within five days of receiving the Notice on January 5, 2016.

The landlord said that the tenant is now up-to-date with all payments. Since the Notice was issued the tenant has been issued receipts for use and occupancy. Copies of receipts were supplied as evidence.

The landlord said that they would like an Order of possession; however the tenancy may be able to be maintained. The outcome of the end of the tenancy has yet to be established. The tenant would like to remain in the rental unit.

The tenant agreed to pay the \$100.00 filing fee cost.

Analysis

Pursuant to section 62(3) of the Act, I find that the tenant received the Notice to end tenancy on January 5, 2016. This is the date the tenant said he received the Notice.

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 received this Notice on January 5, 2016, I find that the earliest effective date of the Notice is January 15, 2016.

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 January 18, 2016; the date given on the Notice.

Section 46 of the Act stipulates that a tenant has five 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. The tenant has confirmed that he did not pay all of the January 2016 rent owed within five days of January 5, 2016. The tenant did not dispute the Notice. 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; January 18, 2016.

The tenant has agreed to pay the \$100.00 filing fee. As the landlords' claim has merit I find, pursuant to section 72 of the Act that the landlord is entitled to recover the \$100.00 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 two 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.

Based on these determinations I grant the landlord a monetary Order in the sum of \$100.00. 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.

Conclusion

The landlord is entitled to an Order of possession and monetary Order for filing fee costs.

The balance of the claim was withdrawn by the landlord as the tenant has paid all sums owed to date.

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: March 08, 2016

Residential Tenancy Branch

