



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 dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession based on unpaid rent, a Monetary Order for unpaid rent and to recover the filing fee for the Application.

Only the Landlord's site manager, J.C. appeared at the hearing. She gave affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions to me.

J.C. testified that the Tenant was served with the Notice of Hearing and the Landlord's Application on February 29, 2016 by registered mail. She provided the tracking number in evidence. Under the Act documents served this way are deemed served five days later; accordingly, I find the Tenant was duly served as of March 5, 2016.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

Background and Evidence

Introduced in evidence was a copy of the residential tenancy agreement which indicated as follows. The tenancy began January 1, 2005. Monthly rent at the time the tenancy began was payable in the amount of \$495.00. A security deposit in the amount of \$247.50 was paid in December of 2002.

J.C. testified that the monthly rent is currently \$683.46. Introduced in evidence by the Landlord were copies of the Notice of Rent Increase—Residential Rental Units relating to the annual rent increases. The most recent Notice of Rent Increase dated September 11, 2015 indicates the rent increased from \$664.20 to \$683.46 commencing January 1, 2016.

J.C. testified that the Tenant failed to pay the full amount of the increased rent pursuant to the September 11, 2015 Notice of Rent Increase. She stated that this has been brought to his attention on numerous occasions and he has simply failed, or refused, to pay the increased amount.

J.C. further testified that in the past the Tenant has similarly failed to pay the full amount of the increased rent when in receipt of a valid Notice of Rent Increase. Introduced in evidence were Notice of Collection Letters dated March 20, 2014, May 12, 2014 and January 21, 2015 wherein the Tenant is informed that he must pay the outstanding rent pursuant to the relevant rent increases.

J.C. testified that the Tenant failed to pay the full amount of rent for the month of February. The Landlord issued a 10 day Notice to End Tenancy for non-payment of rent on February 2, 2016 indicating the amount of \$11.60 was due as of February 1, 2016 (the "Notice").

Based on the testimony J.C. I find that the Tenant was served with the Notice on February 2, 2016 by posting to the rental unit door. Section 90 of the Act provides that documents served in this manner are deemed served three days later. Accordingly, I find that the Tenant was served with the Notice as of February 5, 2016.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days of service, namely, February 10, 2016. The Notice also explains the Tenant had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

J.C. testified that the Tenant failed to pay the outstanding rent, and did not make an application for dispute resolution.

J.C. further testified that the Tenant failed to pay the full amount of rent for March 2016 such that at the time of the hearing the sum of \$17.40 was owed.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

Under section 26 of the Act, the Tenant must not withhold rent unless the Tenant has some authority under the Act to not pay rent. In this situation the Tenant had no authority under the Act to not pay rent.

I find that the Landlord is entitled to an Order of Possession effective **two days** after service on the Tenant. This Order must be served on the Tenant and may be filed in the B.C. Supreme Court and enforced as an order of that Court.

I find that the Landlord has established a total monetary claim of \$117.40 comprised of \$17.40 in outstanding rent and the \$100.00 fee paid by the Landlord for this application. I grant the Landlord a Monetary Order under section 67 for the sum of **\$117.40**. This Monetary Order must be served on the Tenant and may be filed in the B.C. Provincial Court (Small Claims Division) and enforced as an Order of that Court.

Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord is granted an Order of Possession and is granted a Monetary Order for the balance due.

This decision is final and binding on the parties, except as 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 23, 2016

