



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COMMUNITY BUILDERS FOUNDATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

Introduction

This hearing addressed the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an Order of Possession for unpaid rent, pursuant to section 55;

The tenant did not participate in the conference call hearing, which lasted approximately 20 minutes. The landlord's agent (the "landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed she was an agent of the landlord's company named in this application, and had authority to speak on its behalf.

The landlord testified that on March 26, 2016 the tenant was served with the landlord's application for dispute resolution hearing package ("Application") by way of posting to the rental unit door where the tenant is residing. In accordance with sections 89 and 90 of the Act, I find that the tenant was deemed served with the landlord's Application on March 29, 2016, three days after its posting.

The landlord testified that she served the tenant with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated March 14, 2016 ("10 Day Notice"), on the same date, by way of posting to the rental unit door where the tenant is residing. In accordance with sections 88 and 90 of the Act, I find that the tenant was deemed served with the landlord's 10 Day Notice on March 17, 2016, three days after its posting.

Preliminary Issue – Transitional Housing and Jurisdiction

During the landlord's testimony regarding the terms of the tenancy, the landlord stated the tenancy was not a fixed term, but rather it was transitional. The landlord stated the

tenancy provided transitional housing but in the past the Residential Tenancy Branch has addressed matters of eviction with these types of tenancy. The landlord testified that in general, the tenancies provided are aimed to take individuals from homelessness to stabilization and transition them back into the community. The landlord testified that the landlord provides staff on site that do everything from collecting rent to providing community resources and referrals to Doctors.

The landlord's referral to transitional housing raises the issue of jurisdiction under the Act.

Issue(s) to be Decided

If jurisdiction is accepted, is the landlord entitled to an Order of Possession for unpaid rent?

Background and Evidence

The landlord did not provide a tenancy agreement but testified that this tenancy began on November 1, 2015 on a on a month-to-month basis. Rent in the amount of \$425.00 was payable on the first of each month. The tenant remitted \$212.50 for the security deposit at the start of the tenancy. The tenant continues to reside in the rental unit.

A 10 Day Notice for unpaid rent of \$1,150.00 due on March 1, 2016 was issued to the tenant on March 14, 2016. The notice indicates an effective move-out-date of March 27, 2016. The landlord is not seeking a monetary order and has confirmed no payments have been made since the 10 Day Notice was issued.

Analysis

Pursuant to section 4 of the Act, living accommodation provided for emergency shelter or transitional housing does not fall under the Act. The landlord testified that the tenancy was transitional and acknowledged she considered it transitional housing. The landlord's testimony that support services are provided including referrals and assistance accessing community resources suggest that this is indeed transitional housing. Based on this testimony and in the absence of any evidence to the contrary such as a tenancy agreement, I find I have no jurisdiction to render a decision in this matter.

Conclusion

I decline to hear this matter as I have no jurisdiction to consider this application.

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: April 27, 2016

Residential Tenancy Branch