



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hira Painting Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on June 08, 2016 he personally served the Application for Dispute Resolution, the Notice of Hearing, and a copy of the Notice to End Tenancy to a male who is an agent for the company named as a Respondent in this matter. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant was not represented at the hearing.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession; to a monetary Order for unpaid rent; and to keep all or part of the security deposit?

Background and Evidence

The Landlord stated that:

- this tenancy began approximately 14 months ago;
- he entered into a verbal tenancy agreement with the male who was served with this Application for Dispute Resolution;
- the male entered into the tenancy agreement on behalf of the company named as a Respondent in this matter;
- he understands the unit was rented for the purposes of housing employees of the company named as a Respondent in this matter;
- the Tenant was required to pay monthly rent of \$700.00 by the first day of each month;
- a security deposit of \$350.00 was paid;

- no rent has been paid for May, June, or July of 2016;
- on June 01, 2016 a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of June 10, 2016, was personally served to the male who was served with this Application for Dispute Resolution;
- the Ten Day Notice to End Tenancy, which is dated June 01, 2016, declares that the Tenant owes \$700.00 in rent that was due on May 01, 2016; and
- the rental unit is still occupied.

Analysis

On the basis of the undisputed evidence I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$700.00 by the first day of each month and that the Tenant has not paid rent for May or June of 2016. As the Tenant is required to pay rent, pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$1,400.00 in outstanding rent for May and June of 2016.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within ten days, by providing proper written notice. On the basis of the undisputed evidence I find that the Ten Day Notice to End Tenancy, served pursuant to section 46 of the *Act*, was personally served to an agent for the Tenant on June 01, 2016.

Section 46(1) of the *Act* stipulates that a Ten Day Notice to End Tenancy is effective ten days after the date that the tenant receives the Notice. As the Tenant received this Notice on June 01, 2016 I find that the earliest effective date of the Notice was June 11, 2016.

Section 53 of the *Act* stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Ten Day Notice to End Tenancy was June 11, 2016.

Section 46 of the *Act* stipulates that a Tenant has five days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy ended on June 11, 2016. On this basis I grant the landlord an Order of Possession.

I find that the Tenant fundamentally breached the tenancy agreement when the Tenant did not pay rent when it was due. I find that the Tenant fundamentally breached section 46(5) of the *Act* when the Tenant did not vacate the rental unit by the effective date of the Ten Day Notice to End Tenancy. I find that the continued occupancy of the rental unit makes it difficult, if not impossible, for the Landlord to find new tenants for July of

2016. I therefore find that the Tenant must compensate the Landlord for the loss of revenue it can be reasonably expected to experience in July of 2015.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on July 31, 2016. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$2,200.00, which includes \$2,100.00 in unpaid rent/lost revenue and \$100.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to keep the Tenant's security deposit of \$350.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$1,850.00. 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.

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: July 12, 2016

Residential Tenancy Branch