



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 690324 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution by Direct Request, received at the Residential Tenancy Branch on June 13, 2017, which was subsequently referred to me for a participatory hearing (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for unpaid rent or utilities; and
- a monetary order for unpaid rent or utilities.

The Landlord was represented at the hearing by G.R., who provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlord, G.R. testified the Application package was served on the Tenant by registered mail on June 13, 2017. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Tenant is deemed to have received the Application package on June 18, 2017.

G.R. was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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.

Preliminary and Procedural Matters

The Landlord's Application referred to two rental units, leading to some uncertainty about which rental unit is properly the subject of the Application. However, G.R. confirmed in his testimony that the Tenant originally occupied #103 but moved temporarily to #102 as a result of water damage. This Decision and orders will deal with the tenancy as it relates to the Tenant's use and occupation of both units.

Issues to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent or utilities?
2. Is the Landlord entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

The Landlord provided a copy of the tenancy agreement between the parties into evidence. It confirms a month-to-month tenancy began on May 1, 2011. Currently, rent in the amount of \$465.00 per month is due on the first day of each month. The Landlord holds a security deposit in the amount of \$280.00.

G.R. testified the Tenant did not pay rent when due on June 1, 2017. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated June 2, 2017 (the "10 Day Notice"). The 10 Day Notice was served on the Tenant in person on that date. G.R. testified the Tenant subsequently paid rent on June 15, 2017. However, rent was not paid when due on August 1, 2017, and \$465.00 remains outstanding.

On behalf of the Landlord, G.R. also asked to recover the \$100.00 filing fee paid to make the Application, and requested that I apply the security deposit to any monetary award I grant.

Analysis

Based on the unchallenged affirmed testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent. When a tenant does not pay rent when due, section 46 of the *Act* permits a landlord to end the tenancy by issuing a notice to end tenancy. A tenant who receives a notice to end tenancy under this section has five days after receipt to either pay rent in full or dispute the notice by filing an application for dispute resolution. When a tenant does not pay rent in full or dispute the notice, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice.

In this case, the Landlord testified, and I find, that the Tenant did not pay rent when due on June 1, 2017. Accordingly, the Landlord issued the 10 Day Notice, which I find was served on the Tenant in person on June 2, 2017. The Tenant had five days – until June 7, 2017 – to pay rent in full or file an application for dispute resolution. She did neither. Pursuant to section 46(5) of the *Act*, I find the Tenant is deemed to have accepted the tenancy ended on the effective date of the 10 Day Notice. The Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

In addition, although the Tenant eventually paid rent for the month of June 2017, I am satisfied the Landlord has established a claim for outstanding rent in the amount of \$465.00. I find the Landlord is entitled to a monetary award for outstanding rent in this amount. Having been successful, I find the Landlord is also entitled to recover the \$100.00 filing fee paid to make this Application. On behalf of the Landlord, G.R. also asked that I apply the security deposit to the monetary award.

Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$285.00, which is comprised of \$465.00 in unpaid rent plus \$100.00 in recovery of the filing fee, less the security deposit of \$280.00.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$285.00. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: August 14, 2017

Residential Tenancy Branch