



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Royal LePage Downtown Realty Ltd.
(tenant name suppressed to protect privacy)

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution by Direct Request. The matter was subsequently referred to a participatory hearing, held on August 31, 2017 (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's Agent, T.C., provided affirmed testimony at the hearing. The Tenant did not attend the hearing.

The Landlord's Agent testified the Notice of Hearing along with supporting documentary evidence was sent to the Tenant by registered mail on August 3, 2017. I find the Tenant received this package on August 8, 2017, the fifth day after its registered mailing, pursuant to Section 90 of the *Act*. The Landlord's Agent further stated that the amended application he filed, to include further unpaid rent, was sent to the Tenant by registered mail on August 8, 2017. I find the Tenant received this package on August 13, 2017, pursuant to Section 90 of the *Act*.

The Landlord 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.

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. It confirms the tenancy began on December 1, 2016. At that time, rent in the amount of \$890.00 per month was due on the first day of each month. The Landlord holds a security deposit in the amount of \$445.00 but does not hold a pet deposit.

The Landlord provided a copy of the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice). The Landlord testified that the 10 Day Notice was served to the Tenant by registered mail on July 7, 2017. The 10 Day Notice indicated that the amount of outstanding rent accrued at that time was \$890.00. The Landlord testified that this amount represented rent for the month of July 2017.

The Landlord also testified that no rent has been paid since giving the 10 Day Notice to the Tenant. Accordingly, the Landlord stated that rent is still outstanding and has not been paid as required on July 1 and August 1 of 2017. The Landlord testified that the Tenant now owes \$1,780.00 in unpaid rent, at the time of this hearing.

The Tenant did not attend the hearing to dispute the evidence provided by the Landlord.

Analysis

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

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.

I am satisfied that on July 7, 2017, the Landlord issued the 10 Day Notice and sent this by registered mail to the rental unit. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 5 days later. I find the Tenant is deemed to have received the 10 Day Notice on July 12, 2017.

The Tenant had 5 days to pay rent in full or file an application for dispute resolution. There is no evidence before me that the Tenant did either. I find the Tenant is conclusively presumed to have accepted the end of the tenancy. The Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

With respect to the Landlord's request for a Monetary Order for unpaid rent, I find there is sufficient evidence before me to demonstrate that the Tenant owes and has failed to pay rent in full for July and August of 2017 at a monthly rate of \$890.00, totalling \$1,780.00 in unpaid rent as of the time of this hearing.

Further, the Landlord's Agent requested that they be able to retain the security deposit of \$445.00 to offset the amount of rent owed, and to recover the \$100 filing fee for this application.

Pursuant to sections 67 and 72 of the *Act*, I grant the Landlord the \$100 filing fee, and I authorize that the security deposit, currently held by the Landlord, be kept and used to offset the amount of rent still owed by the Tenant. In summary, I grant the monetary order based on the following:

Claim	Amount
Unpaid rent: July and August of 2017	\$1,780.00
Filing Fee	\$100.00
Less: Security Deposit currently held by Landlord	(\$445.00)
TOTAL:	\$1,435.00

Conclusion

The landlord is granted an order of possession effective **two days after service** on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

The landlord is granted a monetary order pursuant to Section 67 in the amount of **\$1,435.00** comprised of rent owed. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: August 31, 2017

Residential Tenancy Branch