



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR OPC MNR FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on July 26, 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;
- an order of possession for cause;
- a monetary order for unpaid rent or utilities; and
- an order granting recovery of the filing fee.

The Landlord attended the hearing on his own behalf and was assisted by H.G., who acted as agent and provided translation when necessary. Both provided a solemn affirmation. The Tenant did not attend the hearing.

On behalf of the Landlord, H.G. testified the Application package was served on the Tenant by registered mail on July 29, 2017. A Canada Post registered mail receipt was submitted with the Landlord's documentary evidence. 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 August 3, 2017.

On behalf of the Landlord, H.G. was provided with 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 did not submit documentary evidence in support of the Application. Accordingly, he was provided with a fax number and was asked to submit a copy of the notice to end tenancy for unpaid rent or utilities to me on today's date. The following documents were received:

- a copy of a Two Month Notice to End Tenancy for Landlord's Use of Property, dated May 28, 2017, that did not provide a reason for issuing the notice (2 pages);
- a copy of a One Month Notice to End Tenancy for Cause, dated July 12, 2017, including an incomplete second page of a notice to end tenancy for landlord's use of property (2 pages);
- a copy of the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on July 26, 2017 (2 pages);
- a copy of a Notice of a Dispute Resolution Hearing, dated July 26, 2017 (1 page);
- a copy of a Residential Tenancy Fact Sheet (4 pages); and
- illegible copies of correspondence (2 pages).

As the requested information was not provided, the hearing was reconvened on the same date. During the reconvened hearing, H.G. confirmed that the notice to end tenancy for unpaid rent or utilities was not available.

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 an order of possession for cause?
3. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
4. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

On behalf of the Landlord, H.G. testified there is no written tenancy agreement. However, he confirmed the tenancy began in 2015. Currently, rent in the amount of \$2,100.00 per month is due on the first day of each month. The Tenant did not pay a security deposit or a pet damage deposit.

H.G. testified that the Tenant has not paid rent when due since April 1, 2017. No partial payments have been received and rent in the amount of \$12,600.00 is currently outstanding. H.G. testified that the Landlord issued a notice to end tenancy for unpaid rent or utilities. According to H.G., the notice was served on the Tenant by attaching a copy to the door of the Tenant's rental unit. H.G. indicated the Landlord does not know if the Tenant disputed the notice.

The Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the unchallenged and affirmed oral 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 due under a tenancy agreement. In this case, I find that rent has not been paid when due since April 1, 2017, and that rent in the amount of \$12,600.00 is outstanding. Accordingly, I find the Landlord is entitled to a monetary award in the amount of \$12,600.00 for unpaid rent. Having been successful in this regard, the Landlord is also entitled to recover the \$100.00 filing fee paid to make the Application. Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$12,700.00.

However, as noted under *Preliminary and Procedural Matters*, above, the Landlord was unable to provide a copy of the notice to end tenancy for unpaid rent or utilities being relied upon. Accordingly, I find I am unable to satisfy myself that the notice complies with the form and content requirements of section 52 of the *Act*. As a result, I decline to grant the Landlord an order of possession based on the notice to end tenancy for unpaid rent or utilities. This aspect of the Landlord's Application is dismissed, without leave to reapply.

In addition, although the Landlord also applied for an order of possession based on a notice to end tenancy for cause, the notice provided with the Landlord's faxed evidence – specifically the second page – was not in the correct form. Rather, attached was the second page of a notice to end tenancy for landlord's use of property that had not been completed. Again, I decline to grant an order of possession to the Landlord based on an invalid notice to end tenancy for cause. This aspect of the Landlord's Application is dismissed, without leave to reapply.

Conclusion

The Landlord is granted a monetary order in the amount of \$12,700.00. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims). The tenancy will continue until otherwise ended in accordance with the *Act*.

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: September 15, 2017

Residential Tenancy Branch