



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lu'Ma Native Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, MNSD, 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 or Utilities, a monetary Order for unpaid rent or utilities, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for Landlord stated that in November of 2016 the Application for Dispute Resolution, the Notice of Hearing and documents the Landlord submitted with the Application for Dispute Resolution were sent to each Tenant, via registered mail, at the rental unit. The Landlord submitted Canada Post documentation that corroborates this statement. 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 Tenants did not appear at the hearing.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and to a monetary Order for unpaid rent or utilities?

Background and Evidence

The Agent for the Landlord stated that:

- the Landlord entered into a verbal tenancy agreement with the female Tenant in April of 2012;
- the Landlord entered into a verbal tenancy agreement with the male Tenant in April of 2013;

- the Tenants agreed to pay monthly rent of \$735.00 by the first day of each month;
- a security deposit of \$375.00 was transferred to this tenancy by a former tenant who has since vacated the rental unit;
- when this Application for Dispute Resolution was filed the Tenants owed \$2,876.00 in rent, none of which has been paid;
- the Tenants have not paid any rent since Application for Dispute Resolution was filed, however the Landlord is not seeking compensation for that rent at this time; and
- a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of October 21, 2017, was posted on the door of the rental unit on October 11, 2017.

Analysis

On the basis of the undisputed evidence I find that the Tenants entered into a tenancy agreement with the Landlord that required the Tenants to pay monthly rent of \$735.00 by the first day of each month and that the Tenants owe \$2,876.00 in rent for the months prior to November of 2017. As the Tenants are required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenants must pay \$2,876.00 in outstanding rent to the Landlord.

Section 46(1) of the *Act* entitles landlords to end a tenancy within ten days if rent is not paid when it is due 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 posted at the rental unit on October 11, 2017.

Section 90 of the *Act* stipulates that a document that is posted on a door is deemed to be received on the third day after it is posted. I therefore find that the Tenants received the Notice to End Tenancy on October 14, 2017.

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 Tenants are deemed to have received this Notice on October 14, 2017 I find that the earliest effective date of the Notice was October 24, 2017.

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 October 24, 2017.

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 Tenants exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenants accepted that the tenancy has ended. On this basis I grant the Landlord an Order of Possession.

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 **two days after it is served upon the Tenants**. 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 \$2,976.00, which includes \$2,876.00 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to keep the security deposit of \$375.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$2,601.00. 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 *Act*.

Dated: January 16, 2018

Residential Tenancy Branch