



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for an Order of Possession for Unpaid Rent pursuant to section 55.

The tenant did not attend this hearing, although I waited until 9:40 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. Two representatives attended the hearing on behalf of the landlord (Landlord GS and Landlord NA). They were both given a full opportunity to be heard, to present sworn testimony, and to make submissions.

Landlord GS testified that he served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") on October 2, 2017 by Landlord GS posting it on the tenant's door. Based on the proof of service submitted and the sworn testimony of Landlord GS, I find that the tenant was deemed served with the landlord's 10 Day Notice on October 5, 2017 – 3 days after the posting of the notice to end tenancy.

Landlord GS also testified that he served the tenant with the landlord's Application for Dispute Resolution package with notice of this hearing ("ADR") on November 21, 2017 in person. I accept the evidence of landlord GS and find that the tenant was duly served with the landlord's ADR package on November 21, 2017.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for the rental unit?

Background and Evidence

According to the evidence of the landlord, this tenancy began on January 1, 2017. The landlord submitted a copy of the tenancy agreement indicating the tenant was required to pay \$450.00 on the first of each month. Landlord GS testified that the landlord continues to hold a \$225.00 security deposit paid by the tenant in December 2016.

The landlord submitted a copy of their "rent ledger" with respect to the tenant's rental unit. The ledger indicated that the tenant had failed to pay rent July 1, 2017 and for all of the following months until the date of this hearing (January 2018). Landlord GS testified that he spoke to the tenant on a number of occasions in an attempt to address the outstanding rent. As of the date of this hearing, the landlord testified that the tenant continues to live in the rental unit and he has accrued over \$3150.00 in rental arrears (7 months).

Landlord NA testified that they do not wish to see the tenant accrue any more rental arrears but that he cannot reside in the rental unit without any payment of rent. The landlord testified that 2 previous 10 Day Notices have been issued but not acted upon. After issuing the 10 Day Notice to End Tenancy dated October 2, 2017, the landlord applied for and sought an Order of Possession for the rental unit. The landlords did not apply for a monetary order or return of the filing fee with respect to this tenancy.

The landlord issued a 10 Day Notice for Unpaid Rent on October 5, 2017 (after its posting date). The landlord indicated that the tenant did not apply to cancel a notice and has not paid his outstanding rent. The landlord indicated that they believe the tenant intends to vacate the rental unit on February 1, 2018. The landlord requested an Order of Possession with this date.

Analysis

I accept the undisputed and documented evidence of the landlord that the tenant failed to pay his rental arrears or October 2017 rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, based on the landlord's request, I issue the landlord an Order of Possession dated February 1, 2018 (as per their request).

Conclusion

The landlord is provided with a formal copy of an Order of Possession effective February 1, 2018. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: January 31, 2018

Residential Tenancy Branch