



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FIRSTSERVICE RESIDENTIAL BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL OPRM-DR

Introduction

This hearing was scheduled to convene at 11:00 a.m. on October 11, 2018 by way of conference call concerning an application made by the landlord seeking an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application. The landlord had applied by way of the Direct Request Process, and an Interim Decision was made by the director, Residential Tenancy Branch adjourning the application to this participatory hearing.

An agent and a witness for the landlord attended the hearing, and the landlord's agent gave affirmed testimony. The landlord's witness did not testify. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call.

The Interim Decision of the director is dated August 24, 2018 and orders the landlord to serve the tenant with the Interim Decision, an attached Notice of Reconvened Hearing and all other required documents within 3 days of receiving the Interim Decision and Notice of Reconvened Hearing from the Residential Tenancy Branch. The Notice of Reconvened Hearing is dated August 27, 2018 and the landlord's agent testified that the documents were served on the tenant by registered mail on August 28, 2018. The landlord was permitted to provide proof of that service after the hearing had concluded. I have now received a copy of both sides of a Registered Domestic Customer Receipt stamped by Canada Post with the date of August 28, 2018, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act* and the Decision of the director on August 24, 2018.

Issue(s) to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord's agent testified that this fixed-term tenancy began on August 1, 2017 and reverted to a month-to-month tenancy on February 1, 2018. The landlord's agent believes the tenant vacated the rental unit sometime in September, but is not certain; no notice has been received by the tenant.

A copy of the tenancy agreement has been provided as evidence for this hearing specifying rent in the amount of \$790.00 per month, payable on the 1st day of each month. The landlord's agent testified that the rental building sold, and the landlord's agents took over as agents on March 29, 2018. At the outset of the tenancy, the landlord at the time collected a security deposit from the tenant in the amount of \$395.00 which is currently held in trust by the current landlord, and no pet damage deposit was collected.

On August 3, 2018 the landlord's witness served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice) to the tenant by posting it to the door of the rental unit, and a photograph of the 2-page notice on the apartment door of the tenant has been provided as evidence for this hearing. Copies of the Notice and a Proof of Service document signed by the witness have also been provided. The Notice is dated August 3, 2018 and contains an effective date of vacancy of August 13, 2018 for unpaid rent in the amount of \$1,580.00 that was due on August 1, 2018. The tenant had not paid any rent for July or August, 2018.

The tenant did not serve the landlord with an Application for Dispute Resolution disputing the Notice, and did not pay the rent, and arrears have continued to accumulate. The tenant is now in arrears of rent for July through October, 2018.

The landlord's agent further testified that rent was increased to \$821.00 per month effective September 1, 2018, and has provided a computerized Tenant Ledger running from March 27, 2018 to September 1, 2018 showing the amount of rent due as \$790.00

for each month up to August, 2018, and \$821.00 for September's rent. The landlord was permitted to provide to me a copy of the Notice of Rent Increase after the hearing had concluded.

The landlord seeks an Order of Possession, a monetary order for unpaid rent of \$3,222.00 for July, August, September and October, 2018 inclusive, and recovery of the \$100.00 filing fee.

Analysis

The *Residential Tenancy Act* states that once served, or deemed served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice), the tenant has 5 days to pay the rent in full or dispute the Notice by filing and serving the landlord with an Application for Dispute Resolution. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy.

In this case, I find that the Notice, having been posted to the door of the rental unit on August 3, 2018 is deemed to have been served 3 days later, or August 6, 2018. I accept the undisputed testimony of the landlord's agent that the tenant did not pay the rent in full and did not serve the landlord with an Application for Dispute Resolution, and I have no such application before me. I have reviewed the Notice, and I find that it is in the approved form and contains information required by the *Act*, and I change the effective date of vacancy to 10 days after deemed service, being August 16, 2018. I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

With respect to the monetary application for unpaid rent, I have reviewed the Tenant Ledger, the tenancy agreement and the Notice of Rent Increase, and I am satisfied that the landlord has established a claim of \$790.00 for each of July and August, 2018 as well as \$821.00 for each of September and October, 2018.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$3,322.00.

This order is final and binding and may be enforced.

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: October 16, 2018

Residential Tenancy Branch