



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASA MIA APTS C/O GATEWAY PROPERTY
MANAGEMENT and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPC, FFL

Introduction

The hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution in which the Landlord applied for an Order of Possession and to recover the cost of filing this Application.

The Agent for the Landlord stated that on January 28, 2019 the Application for Dispute Resolution, the Notice of Hearing, and evidence the Landlord submitted to the Residential Tenancy Branch in January of 2019 were sent to the Tenant, via registered mail. The Landlord submitted Canada Post documentation that corroborates this testimony. The Agent for the Landlord stated that these documents were also placed in the Tenant's mail slot on January 28, 2019. On the basis of the undisputed evidence I find that these documents were served on the Tenant in accordance with section 89 of the *Act*. As the documents were properly served on the Tenant, the evidence was accepted as evidence for these proceedings and the hearing proceeded in the absence of the Tenant.

The Tenant filed an Application for Dispute Resolution in which the Tenant applied to cancel a Notice to End Tenancy for Cause; for more time to apply cancel a Notice to End Tenancy; for an Order requiring the Landlord to comply with the *Residential Tenancy Act* (*Act*) or the tenancy agreement; for a monetary Order; for a rent reduction; and for an Order requiring the Landlord to make repairs. The Agent for the Landlord stated that he received the Tenant's Application for Dispute Resolution on February 09, 2019.

In February of 2019 the Landlord submitted evidence to the Residential Tenancy Branch in support of the Landlord's Application for Dispute Resolution and in response to the Tenant's Application for Dispute Resolution. The Agent for the Landlord stated that this evidence was placed in the Tenant's mail slot on February 23, 2019. On the basis of the

undisputed evidence I find that this evidence was properly served to the Tenant and it was accepted as evidence for these proceedings.

On March 02, 2019 the Landlord submitted evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was sent to the Tenant, via registered mail. On the basis of the undisputed evidence I find that this evidence was properly served to the Tenant and it was accepted as evidence for these proceedings.

Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession on the basis of a One Month Notice to End Tenancy for Cause?

Should the Tenant be granted more time to apply to cancel the One Month Notice to End Tenancy and, if so, should it be set aside?

Is there a need to issue an Order requiring the Landlord to make repairs?

Is the Tenant entitled to a monetary Order?

Background and Evidence

The Agent for the Landlord stated that:

- this tenancy began on November 01, 2014;
- rent of \$875.00 is due by the first day of each month;
- on January 01, 2019 he placed a One Month Notice to End Tenancy for Cause through the Tenant's mail slot;
- the One Month Notice to End Tenancy for Cause declared that the Landlord was ending the tenancy because the tenant is repeatedly late paying rent;
- the Notice declared that the Tenant must vacate the rental unit by February 28, 2019;
- the Tenant is still residing in the rental unit
- the Tenant paid \$835.00 in rent for December on December 03, 2018;
- the Tenant paid \$400.00 in rent for November on November 13, 2018;
- the Tenant paid \$435.00 in rent for November on December 03, 2018;
- the Tenant paid \$400.00 in rent for October on October 02, 2018;
- the Tenant paid \$505.00 in rent on November 05, 2018, a portion of which was applied to outstanding rent from September;
- the Tenant paid \$400.00 in rent for September on September 04, 2018; and
- the Tenant paid \$400.00 in rent for September on September 10, 2018.

Analysis

Section 47(1)(b) of the *Act* authorizes a landlord to end a tenancy by giving notice to end the tenancy if the tenant is repeatedly late paying rent. On the basis of the undisputed evidence I find that on January 01, 2019 the Landlord served the Tenant with a One Month Notice to End Tenancy, pursuant to section 47(1)(b) of the *Act*.

Residential Tenancy Branch policy guideline #38, with which I concur, stipulates that three late payments are the minimum number sufficient to justify a notice under these provisions. On the basis of the undisputed evidence I find that the Tenant was late paying rent in September, October, November, and December of 2018. I therefore find that the Landlord has established grounds to end this tenancy pursuant to section 47(1)(b) of the *Act*.

I therefore dismiss the Tenant's application to set aside the One Month Notice to End Tenancy and I grant the Landlord's application for an Order of Possession.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application.

The teleconference hearing was scheduled for to begin at 9:30 a.m. on this date and it began at the scheduled start time. By the time the teleconference ended at 9:34 a.m. the Tenant had not appeared. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Agent for the Landlord and I were the only ones who had called into this teleconference.

I find that the Tenant failed to diligently pursue his Application for Dispute Resolution and I therefore dismiss his application for more time to apply cancel a Notice to End Tenancy; for an Order requiring the Landlord to comply with the *Act* or the tenancy agreement; for a monetary Order; for a rent reduction; and for an Order requiring the Landlord to make repairs, without leave to reapply.

Conclusion

I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on March 31, 2019. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

All issues in the Tenant's Application for Dispute Resolution have been dismissed, without leave to reapply.

The Landlord has established a monetary claim in the amount of \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution and I grant the Landlord a monetary Order for \$100.00. 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 *Residential Tenancy Act*.

Dated: March 11, 2019

Residential Tenancy Branch