



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1748640 Alberta Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, OLC, OPR, MNR, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on April 9, 2019 for:

1. An Order cancelling a notice to end tenancy - Section 46; and
2. An Order for the Landlord’s compliance - Section 62.

The Landlord applied on April 12, 2019 with an amendment made May 6, 2019 for:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent or utilities - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

Preliminary Matter

The Tenant did not appear on the conference call hearing. It was confirmed that the correct call-in numbers and participant codes were provided in the notice of hearing to the Tenant. I accept the Landlord’s oral evidence that the Tenant was served with the Landlord’s application for dispute resolution, notice of hearing and all evidence (the “Materials”) by registered mail on April 18, 2019 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the Materials on April 23, 2019. I also accept the Landlord’s oral

evidence that the Tenant was served with the amended application by registered mail on May 6, 2019 and find that the Tenant is deemed to have received this amendment on May 11, 2019. As the Tenant did not attend the hearing to pursue its own application I dismiss the Tenant's application. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to unpaid rent?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy under written agreement started on October 16, 2017. The tenancy agreement contains the Landlord's name and address. Rent of \$1,500.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$750.00 as a security deposit. The Tenant paid no rent on April 1, 2019 and on April 3, 2019 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice") by registered mail on April 5, 2019. The Notice sets out unpaid rent of \$1,500.00 due April 1, 2019. Through the Landlord's oversight the Notice does not set out the Landlord's address on the approved form. The Tenant's application to dispute the Notice sets out the address of the Landlord as contained in the tenancy agreement. The Tenant has not paid the arrears on the Notice and has not paid rent for May 2019. The Landlord has been informed that the Tenant is in the process of moving out of the unit. The Landlord claims unpaid rent of \$3,000.00 for April and May 2019.

Analysis

Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the Act

provides that In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

Section 68(1) of the Act provides that if a notice to end a tenancy does not comply with section 52 *[form and content of notice to end tenancy]*, the director may amend the notice if satisfied that

- (a) the person receiving the notice knew, or should have known, the information that was omitted from the notice, and
- (b) in the circumstances, it is reasonable to amend the notice.

Given the Tenant's application to dispute the Notice setting out the Landlord's address as contained in the tenancy agreement I consider that the Tenant knew the Landlord's address and in the circumstances it is reasonable to amend the Notice to set out the Landlord's address as provided in the tenancy agreement. With this amendment I find that the Notice complies in form and content. Further based on the Landlord's evidence of unpaid rent I find that the Notice is valid. Given the dismissal of the Tenant's application, as the Notice is upheld and as the Tenant has not yet moved out of the unit, I find that the Landlord is entitled to an order of possession.

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement. Based on the Landlord's undisputed evidence, I find that the Landlord has substantiated that the Tenant has not paid rent of \$3,000.00 and that the Landlord is entitled to unpaid rent of **\$3,000.00**. As the Landlord's application is

successful I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$3,100.00**. Deducting the security deposit of **\$750.00** plus zero interest leaves **\$2,350.00** owed by the Tenant to the Landlord.

As the Landlord's application has been successful and the Tenant's application has been dismissed I made the orders out in the names of the Parties as provided in the Landlord's application.

Conclusion

The Tenant's application is dismissed.

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the Landlord retain the **deposit** and interest of \$750.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$2,350.00**. If necessary, this order may be filed in the 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: May 24, 2019

Residential Tenancy Branch