



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Atira Women's Resource Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, OPR

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67; and
2. An Order of Possession - Section 55.

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing (the “Materials”) by registered mail on June 5, 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 June 10, 2019. 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?

Background and Evidence

The tenancy under written agreement started on July 5, 2018. Rent of \$375.00 is payable on the first day of each month. The Landlord thought the rent was \$420.00 but has no evidence to support a different rental rate than set out on the tenancy

agreement. At the outset of the tenancy the Landlord collected \$359.00 as a security deposit calculated from the monthly market rental rate of \$718.00. The Tenant did not pay rent for January, March, April, and May 2019. On May 9, 2019 the Landlord served the Tenant with a 10-day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door of the unit. The Notice sets out unpaid rent of \$1,679.00 due May 1, 2019. The Tenant has not paid rent for June 2019 and while it is unknown if the Tenant is residing in the unit the Tenant's belongings are still present and the Tenant is periodically at the unit. The Tenant has not paid the arrears and has not disputed the Notice.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Based on undisputed evidence I find that the Landlord gave the Tenant the Notice and the Tenant did not dispute the Notice or pay the arrears. For these reasons I find that the Tenant is conclusively presumed to have accepted the end of the tenancy and must move out of the unit.

Section 55(2) of the Act provides that where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired, a landlord may request an order of possession. Based on undisputed evidence that the Tenant has not moved out of the unit and as the Landlord made the application seeking an order of possession, I find that the Landlord has substantiated an entitlement 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 whether or not the landlord complies with this Act, the regulations or the tenancy agreement. Based on the evidence of the monthly rental amount set out on the tenancy agreement and as the Landlord has no evidence of that rental rate having increased or changed, I find that the Landlord has substantiated that the monthly rent payable is \$375.00. Based on undisputed evidence of the months that rent was not paid I find that the Landlord, I find that the Landlord has substantiated an entitlement to **\$1,875.00** as unpaid rent for January, March, April, May and June 2019. Deducting the security deposit of **\$359.00** plus zero interest from the Landlord's entitlement leaves **\$1,516.00** owed to the Landlord.

Conclusion

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 \$359.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,516.00**. 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: July 09, 2019

Residential Tenancy Branch