



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SHANGUANG WANG
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Preliminary matter

This application was originally made under the Direct Request process which is an Ex-Parte process based on paper submissions only. As such the submissions must be complete and have no ambiguities. The Landlord's application did not clearly state the rental address on the tenancy agreement; therefore it was unclear to the adjudicator where the rental unit was and if it was the same address as on the 10 Day Notice to End Tenancy for Unpaid Rent. Consequently the application was adjourned to a participatory hearing on today's date.

The Landlord confirmed the rental unit address is the same as the address on the 10 Day Notice to End Tenancy for Unpaid Rent.

Introduction

This matter dealt with an application by the Landlord for an Order of Possession, a Monetary Order for unpaid rent and to recover the filing fee for this proceeding

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on September 3, 2019. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

Background and Evidence

This tenancy started in May 2017 as a month to month tenancy. Rent is \$717.50 per month payable on the 1st day of each month. The Tenant did not pay a security deposit.

The Landlord said that the Tenant did not pay \$357.50 of rent for August 2019 when it was due and as a result, on August 9, 2019 he personally delivered a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated August 9, 2019. The Landlord said the Tenant has abandon the unit so he is withdrawing his request for an Order of Possession, but the Landlord is still requesting a monetary Order for unpaid rent for August 2019 in the amount of \$357.50.

The Landlord also sought to recover the \$100.00 filing fee for this proceeding.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy on the days it is received in person, or on August 9, 2019. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than August 14, 2019.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find that the Landlord is entitled to recover unpaid rent for August 2019, in the amount of \$357.50.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$100.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$ 357.50
Recover filing fee	\$ 100.00

Subtotal:	\$ 457.50
Balance Owing	\$ 457.50

Conclusion

A Monetary Order in the amount of \$457.50 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) 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: November 4, 2019

Residential Tenancy Branch