



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RAAMCO INTERNATIONAL PROPERTIES CANADIAN LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPRM-DL, FFL

Introduction

This hearing was convened in response to the Landlord's Application for Direct Request Proceeding, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities, a monetary Order for unpaid rent or utilities, and to recover the fee for filing this Application for Dispute Resolution. The matter was scheduled for a participatory hearing as the Landlord did not submit a copy of a tenancy agreement, which is required for a direct request proceeding.

At the hearing the Agent for the Landlord stated that the Landlord has been granted an Order of Possession for the rental unit and he withdrew the Landlord's application for an Order of Possession.

The Agent for the Landlord stated that on October 21, 2019 the Dispute Resolution Package and evidence the Landlord submitted to the Residential Tenancy Branch in October of 2019 were sent to the Tenant at the rental unit, via registered mail. The Agent for the Landlord cited a Canada Post tracking number that corroborates this testimony. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however, the Tenant did not appear at the hearing.

As the aforementioned documents were properly served to the Tenant, the hearing proceeded in the absence of the Tenant and the evidence was accepted as evidence for these proceedings.

On November 25, 2017 the Landlord submitted additional evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was not served to the Tenant, as he did not have a forwarding address for the Tenant. As this evidence was not served to the Tenant, it was not accepted as evidence for these proceedings.

The Agent for the Landlord affirmed that he would provide the truth, the whole truth, and nothing but the truth at these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid rent or unpaid utilities and to recover the filing fee?

Background and Evidence

The Agent for the Landlord stated that:

- this tenancy began in 2008 or 2009;
- at the end of the tenancy the Tenant was required to pay monthly rent of \$912.00;
- rent was due by the first day of each month;
- the Tenant paid no rent for August or September of 2019;
- the Tenant paid rent for October of 2019;
- the Tenant paid no rent for November of 2019;
- the Tenant was served with a Ten Day Notice to End Tenancy, which was disputed by the Tenant;
- at a hearing on November 05, 2019 a Residential Tenancy Branch Arbitrator dismissed the Tenant's application to cancel the Ten Day Notice to End Tenancy and granted the Landlord an Order of Possession;
- on November 05, 2019 the Landlord served the Tenant with an Order of Possession, via registered mail, which required the Tenant to vacate the rental unit two days after it was served to the Tenant; and
- the rental unit was vacated on November 19, 2019.

In the Application for Dispute Resolution, the Landlord applied for unpaid rent for August and September of 2019. The Agent for the Landlord stated that the Landlord is also seeking compensation for unpaid rent from November of 2019.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$912.00 by the first day of each month.

As the Tenant is required to pay rent when it is due, pursuant to section 26(1) of the *Residential Tenancy Act (Act)*, I find that the Tenant must pay \$1,824.00 in outstanding rent to the Landlord, from August and September of 2019.

On the basis of the undisputed evidence I find that on November 05, 2019 an Order of Possession, which required the Tenant to vacate the rental unit two days after it was served to the Tenant, was mailed to the Tenant. I find that this Order of Possession is deemed received on November 10, 2019, pursuant to section 90 of the *Act*.

As the Order of Possession is deemed received on November 10, 2019, and it required the Tenant to vacate two days after it was received, I find that the Tenant was required to vacate the rental unit on November 12, 2019.

I find that it was reasonable for the Tenant to conclude that the Landlord is seeking to recover all of the rent that is currently due, including unpaid rent that has accrued since the Application for Dispute Resolution was filed. I therefore grant the Agent for the Landlord's request to amend the Application for Dispute Resolution to include a claim for all rent that is currently due.

On the basis of the undisputed evidence, I find that the rental unit was vacated on November 19, 2019. I find that the Tenant is obligated to pay rent for the 19 days he remained in possession of the rental unit, at a daily rate of \$30.40. I therefore find that the Tenant must also pay rent of \$577.60 for November of 2019. I find that the Tenant is not required to pay rent for the entire month of November, as he did not have the right to occupy the unit for the entire month.

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

Conclusion

The Landlord has established a monetary claim, in the amount of \$2,501.60, which includes \$2,401.60 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the \$2,501.60. 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 *Act*.

Dated: December 13, 2019

Residential Tenancy Branch