Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1162538 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes   OPC, OPR, MNR, FF

Introduction

This matter dealt with applications 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's agent said he served the Tenant with the Applications and Notices of Hearings (the "hearing package") by registered mail on November 23, 2019 and December 18, 2019. Based on the evidence of the Landlord's agent, I find that the Tenant was served with the Landlord's hearing packages 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

The tenancy information on this tenancy was not available as the Landlord purchased the property from the previous owner's estate and the estate could only confirm the tenancy existed and the rent was $480.00 per month payable on the first of each month.

The Landlord said that the Tenant did not pay $480.00 of rent for November 2019 when it was due and as a result, on November 28, 2019 the Landlord registered mailed a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 27, 2019. The Landlord's agent said the Tenant has not paid the November 2019 rent nor the December 2019 and January 2020 rent of $480.00 for each month as well. The Landlord's agent said the total unpaid rent is $1,440.00

The Landlord's agent further indicated that the Tenant is living at the rental unit and the Landlord is requesting to end the tenancy as soon as possible

The Landlord's agent 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 5 days after it was registered mailed, or on December 2, 2019. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than December 7, 2019.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for November 2019, December 2019 and January 2020, in the amount of $1,440.00.

As the Landlord has been successful in this matter, the Landlord 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:	$1,440.00	
Recover filing fee	$ 100.00	
Subtotal:		$1,540.00
Balance Owing		$1,540.00

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of $1,540.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and 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: January 13, 2020

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Residential Tenancy Branch