



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL MNRL OPR

Introduction

This hearing was scheduled to convene at 9:30 a.m. this date by way of conference call concerning an application made by the landlord seeking an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application.

The landlord was represented at the hearing by an agent who gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

The landlord's agent testified that the tenant was served with the Application for Dispute Resolution and notice of this hearing by registered mail on December 3, 2019 and the tenant received the package on December 12, 2019. The landlord has provided a copy of the confirmation of delivery by Canada Post as well as the Registered Domestic Customer Receipt addressed to the tenant and date-stamped by Canada Post, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord's agent testified that this fixed term tenancy began on December 15, 2016 and expired on May 31, 2017. A new tenancy agreement was created on May 24, 2017 effective June 1, 2017 on a month-to-month basis, and the tenant still resides in the rental

unit. Rent is subsidized and the tenant's share is \$595.00 per month payable on the 1st day of each month. No security deposit or pet damage deposit was collected from the tenant. The rental unit is a townhouse in a complex, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord's agent further testified that the tenant fell into arrears of rent, and currently owes \$950.00. The landlord has also provided a copy of a "Repayment Agreement," showing that as of June 18, 2019 the tenant was in arrears of rent the sum of \$595.00 and agreed to pay the arrears at the rate of \$50.00 per month for 11 months; and \$45.00 in the 12th month, in addition to the regular monthly rental payments. The tenant did not adhere to the payment schedule and has not provided the annual financial statements that were due on January 1, 2020.

On November 8, 2019 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by regular mail. A copy has been provided for this hearing and it is dated November 8, 2019 and contains an effective date of vacancy of November 22, 2019 for unpaid rent in the amount of \$1,190.00 that was due on November 1, 2019. Since then, the tenant has paid:

- \$1,000.00 on November 27, 2019;
- \$385.00 on December 5, 2019; and
- \$585.00 on January 3, 2020.

A Tenant Ledger has also been provided for this hearing.

The tenant has not served the landlord with an Application for Dispute Resolution disputing the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The landlord seeks an Order of Possession and a monetary order for \$950.00 as well as recovery of the \$100.00 filing fee.

Analysis

Firstly, the *Residential Tenancy Act* specifies that once served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities the tenant has 5 days to pay the rent in full, in which case the Notice is of no effect, or dispute it by filing and serving the landlord with an Application for Dispute Resolution. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy.

In this case, I accept the undisputed testimony of the landlord's agent that the tenant has not paid the rent in full. I also accept the undisputed testimony of the landlord's agent that the tenant has not served the landlord with an Application for Dispute Resolution, and I

have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy.

I have reviewed the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and I find that it is in the approved form and contains information required by the *Act*, and the landlord is entitled to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

I also accept the undisputed testimony of the landlord's agent that the tenant is in arrears of rent currently the sum of \$950.00.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the landlord in the amount of \$1,050.00.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I hereby grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,050.00.

This order is final and binding and may be enforced.

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 21, 2020

Residential Tenancy Branch