



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1199946 BC Ltd Minglian and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, MNR, FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (Act). The landlord applied for:

- an order of possession pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) issued by the landlord;
- a monetary order for unpaid rent; and
- for recovery of the filing fee paid for this application.

This dispute began as an application via the ex-parte Direct Request process and was adjourned to a participatory based on the Interim Decision by an adjudicator with the Residential Tenancy Branch (RTB), dated April 15, 2020. For reference, that Interim Decision which should be read in conjunction with this decision.

At the participatory hearing, the landlord's agent (landlord) attended the teleconference hearing. The tenant did not attend the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (Notice of Hearing), application and documentary evidence was considered. The landlord testified that the tenant was served the Notice of Reconvened Hearing, the interim decision, and all other required documents by registered mail on April 17, 2020. The landlord provided the tracking number for the registered mail, which is referred to in the style of cause page of this Decision.

The landlord also said he tracked the registered mail package and the results showed that the mail was claimed; further, the landlord said the registered mail has not been returned to him.

Based on the landlord's undisputed testimony and documentary evidence, I accept that the tenant was served under the Act as required by section 89(1) and the hearing proceeded in the tenant's absence.

During the hearing the landlord was given the opportunity to provide his evidence orally and refer to his documentary evidence. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

Preliminary and Procedural Matters-

The landlord in this matter is a numbered corporation in British Columbia, but who was not the original landlord listed in the written tenancy agreement, which was submitted into evidence.

The landlord here explained the company he represents is an umbrella property development company, and the numbered corporation listed in the application is one of the companies under the umbrella. The landlord said the listed landlord here is the registered owner of the property containing the rental unit.

I accept that the listed landlord here is the appropriately named applicant; however, the landlord confirmed that the name of the landlord listed in the application should not have the last name, which was added as a reference to the name of the umbrella company.

I therefore amended the landlord's application to show only the British Columbia numbered corporation as landlord, without the additional surname.

As another preliminary matter, the landlord confirmed that the tenant vacated the rental unit on or about May 15, 2020, without providing advance notice to the landlord. I therefore find it appropriate to amend the landlord's application to exclude a request for an order of possession of the rental unit.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and to recovery of the filing fee paid for this application?

Background and Evidence

The written tenancy agreement supplied by the landlord shows that the tenancy between the original landlord and this tenant began on October 26, 2017, monthly rent payable by the tenant was \$2,300, due on the first day of the month, and a security deposit of \$1,150 was paid by the tenant at the beginning of the tenancy.

The landlord submitted a copy of a purchase agreement which showed the umbrella company purchased the lands on or about October 22, 2018.

The landlord gave evidence that on March 2, 2020, the tenant was served with the Notice, by registered mail, listing unpaid rent of \$23,000 owed as of March 2, 2020. The effective vacancy date listed on the Notice was March 2, 2020.

The Notice sets out for the benefit of the tenant that the Notice would be cancelled if the rent was paid within five (5) days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenant did not pay the amount listed on the Notice and did not pay any further rent prior to vacating the rental unit on May 15, 2020.

The landlord has requested to increase their monetary claim of \$23,000 to include unpaid rent for the months of April and May 2020, or \$2,300 each.

I have no evidence before me that the tenant applied to dispute the Notice.

Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so.

When a tenant fails to pay rent pursuant to the terms of the tenancy agreement, the landlord may serve the tenant a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, as was the case here.

I find the landlord submitted sufficient, unopposed evidence to prove that the tenant was served the Notice, owed the rent listed, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service.

I find it reasonable under section 4.2 of the Residential Tenancy Branch Rules of Procedure that the landlord be allowed to amend their application to account for further unpaid rent as the tenant did not pay any further rent prior to vacating the rental unit on May 15, 2020. I therefore allow the landlord to include a claim for unpaid rent for April and May 2020 in the amount of \$2,300 each, or a total of \$4,600, for consideration in this application.

I find that the landlord submitted sufficient, unopposed evidence to prove that the tenant owes the amount of \$23,000 as shown on the Notice and further unpaid rent of \$4,600 through May 15, 2020, due under the tenancy agreement. I grant the landlord a monetary award the amount of \$27,600, pursuant to section 67 of the Act.

I also find the landlord is entitled to recover the filing fee of \$100, pursuant to section 72(1) of the Act.

Due to the above, I find the landlord is entitled to a total monetary award of \$27,700, comprised of outstanding rent of \$27,600 through May 15, 2020, and the \$100 filing fee paid by the landlord for this application.

As such, I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$27,700.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenant is advised that costs of such enforcement are subject to recovery from the tenant.

Conclusion

The landlord's amended application for a monetary order for unpaid rent and the filing fee has been granted.

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: June 1, 2020

Residential Tenancy Branch