



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1171123 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for an order of possession for unpaid rent of \$1,250.00, further to having served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent dated February 19, 2020 ("10 Day Notice")

An agent for the Landlord, A.P. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenant. The teleconference phone line remained open for over 15 minutes and was monitored throughout this time. The only person to call into the hearing was the Agent, who indicated that he was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Agent.

I explained the hearing process to the Agent and gave him an opportunity to ask questions about the hearing process. During the hearing the Agent was given the opportunity to provide his evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure "(Rules)"; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenant did not attend the hearing, I considered service of the Notice of Hearing. Section 59 of the Act states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Agent testified that he served the Tenant with the Notice of Hearing documents in person on May 9, 2020. He said that everything the Landlord had uploaded to the RTB was served on the Tenant, as well. I find that the Tenant was deemed served with the Notice of Hearing documents in accordance with the Act. I, therefore, admitted the Application and evidentiary

documents, and I continued to hear from the Agent in the absence of the Tenant.

Preliminary and Procedural Matters

The Landlord provided the Parties' email addresses in the Application and the Agent confirmed them in the hearing. The Agent also confirmed his understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

Issue(s) to be Decided

- Is the Landlord entitled to an order of possession?

Background and Evidence

The Landlord submitted a copy of the Parties' tenancy agreement, and in the hearing, the Agent confirmed that the periodic tenancy began on November 15, 2018, with a monthly rent of \$1,250.00, due on the first day of each month. He confirmed that the Tenant paid the Landlord a security deposit of \$625.00, and a pet damage deposit of \$625.00.

The Landlord submitted a copy of the 10 Day Notice, which was signed and dated February 19, 2020, was served on the Tenant in person by the Agent on February 19, 2020. The 10 Day Notice had an effective vacancy date of February 29, 2020, and was served on the ground that the Tenant failed to pay the Landlord rent owing of \$1,250.00 when it was due on February 1, 2020.

The Agent also testified that the Tenant has not paid the Landlord any rent, since January 2020. Further, there is no evidence before me that the Tenant applied to the RTB to dispute the 10 Day Notice.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Section 26 of the Act confirms that a tenant must pay rent when due under a tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent.

Further, section 46 of the Act permits a landlord to take steps to end a tenancy when rent remains unpaid on any day after the day it is due, by issuing a notice to end tenancy for unpaid rent. Pursuant to section 46(4) of the Act, a tenant has five days after receipt of a notice to end tenancy for unpaid rent to pay the overdue rent or dispute the notice by applying for dispute resolution. Failure to pay the overdue rent or dispute the notice results in the conclusive presumption that the tenancy ends on the effective date of the notice, pursuant to section 46(5) of the Act.

In this case, I find the Tenant received the 10 Day Notice on February 19, 2020. Accordingly, and pursuant to section 46 of the Act, the Tenant had until February 24, 2020, to dispute the 10 Day Notice by applying to the RTB for dispute resolution or by paying the rent in full. The Tenant did not pay rent for February 2020, nor did he pay any rent owing thereafter, up to the date of the hearing. Further, there is no evidence before me that he applied to dispute the 10 Day Notice.

I find that overdue rent has not been paid and that rent in the amount of \$6,250.00 remains outstanding, although the Landlord has not yet applied for a monetary order for unpaid rent. Accordingly, I find the Landlord demonstrated an entitlement to an Order of Possession, which I grant, and which will be effective two days after the Landlord serves it on the Tenant.

Conclusion

The Landlord is successful in the Application for an Order of Possession, as the Tenant was conclusively presumed to have accepted that the tenancy ended on the effective date of the 10 Day Notice, February 29, 2020.

Pursuant to section 55 of the Act, I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. The Landlord is provided with this Order in the above terms and the Tenant must be served with **this Order** as soon as possible.

Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme

Court of British Columbia and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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 11, 2020

Residential Tenancy Branch