



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Princeton & District Community Services
Society and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPQ MNRL-S

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession for:

- an Order of Possession as the tenant no longer qualifies for the subsidized rental unit pursuant to section 55; and
- a monetary order for unpaid rent under the *Act*, regulation or tenancy agreement pursuant to section 67.

JL represented the landlord in this hearing. The tenant called into the hearing for 11:00 a.m., but was disconnected four times during the hearing. During the hearing I confirmed from the online teleconference system that the tenant did call into the hearing several times. The tenant was able to re-attend the hearing, and was able to participate in the hearing before being disconnected again at 11:18 a.m. I waited until 12:00 noon to enable the tenant to reconnect and participate in the rest of the scheduled hearing.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply

During the hearing, the tenant confirmed receipt of the landlord's dispute resolution application ('Application') and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the tenant was duly served with the Application and evidence. The tenant did not submit any written evidence for this hearing.

Preliminary Issue - Service of the 2 Month Notice

The landlord testified that the tenant was served with the 2 Month Notice, dated March 17, 2020, by way of posting the 2 Month Notice in a conspicuous place on March 17, 2020 at 9:50 a.m. The landlord submitted a signed and witnessed proof of service in their evidentiary materials. The tenant disputes ever receiving the 2 Month Notice from the landlord.

Section 88 of the *Act* establishes the requirements for service of documents.

How to give or serve documents generally

88 *All documents, other than those referred to in section 89 [special rules for certain documents], that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways:*

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by ordinary mail or registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;*
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;*
- (f) by leaving a copy in a mailbox or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;*
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;*
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;*

- (i) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents];*
- (j) by any other means of service prescribed in the regulations.*

In this case the proof of service submitted by the landlord states that the 2 Month Notice was placed in the door jam of the tenant's door. The proof of notice states that the 2 Month Notice was served by TD, and witnessed, by AH, neither of whom were in attendance at the hearing. The agent for the landlord was not present for the service of the 2 Month Notice. Although the landlord provided the signed proof of service, the tenant disputes having ever received the 2 Month Notice. In light of the conflicting testimony, I am not satisfied that the landlord provided sufficient evidence to support that the tenant was served with the 2 Month Notice in accordance with the *Act*. On this basis, the 2 Month Notice dated March 17, 2020 is hereby cancelled, and the tenancy is to continue until ended in accordance with the *Act* and tenancy agreement.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent or money owed under the tenancy agreement, regulation, or *Act*?

Background and Evidence

This month-to-month tenancy began on September 15, 2017. The tenant resides in a subsidized housing complex, where the monthly rent is \$583.00, payable on the first of every month. The landlord collected a security and pet damage deposit in the amounts of \$281.50 each deposit.

The landlord is seeking a monetary order in the sum of \$1,749.00 for the tenant's failure to pay the monthly rent for June, July, and August 2020.

Analysis

As set out in Residential Tenancy Policy Guideline #52 COVID-19: Repayment Plans and Related Measures, the referenced non-payment of rent in the landlord's application falls under the "affected rent" period of March 18, 2020 to August 17, 2020. As per the Policy Guideline and associated tenancy regulation, "a landlord must give a tenant a repayment plan if the tenant has unpaid affected rent, unless a **prior agreement** has been entered into and has not been cancelled. If the parties are no longer in a landlord-tenant relationship because the tenancy has ended, a repayment plan would not be required."

As the tenancy is still ongoing, and in consideration of Residential Tenancy Policy Guideline #52, the landlord's application for a monetary order for the unpaid rent is dismissed with leave to reapply.

For further details about repayment plan requirements please refer to the following links, or contact the Residential Tenancy Branch:

<https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/residential-tenancies/policy-guidelines/gl52.pdf>

<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/covid-19#RRP>

Conclusion

The 2 Month Notice dated March 17, 2020 is cancelled, and the tenancy is to continue until ended in accordance with the *Act* and tenancy agreement.

The landlord's application for a monetary order for unpaid rent is dismissed with leave to reapply.

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: September 11, 2020

Residential Tenancy Branch