Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Associa British Columbia-RHOME Property
Man and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes   OPU, MNRL-S, FFL

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord's evidence that the Tenant was served with the application for dispute resolution, notice of hearing and evidence (the "Materials") by *registered mail on August 21, 2020* in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the Materials on August 26, 2020. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to unpaid rent?

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy under written agreement started on January 14, 2020. Rent of $1,932.00 was discounted by $966.00 as a tax benefit resulting in rent of $966.00 being payable on the first day of each month. A reduced rent of $966.00 was payable only while the Tenant was employed as a manager and that employment ended February 27, 2020. At the outset of the tenancy the Landlord collected $483.00 as a security deposit. No pet deposit was collected. On March 5, 2020 the Tenant was given a 10-day notice to end tenancy for unpaid rent (the "Notice") for unpaid rent of $2,065.28 owed as of March 1, 2020. The Tenant did not dispute the Notice and did not pay the outstanding rent. The Landlord obtained a monetary order for the rents owed on the Notice in a previous decision dated July 13, 2020. The Landlord withdraws its claim for recovery of the filing fee. The Tenant has not paid rent for September and October 2020 and has not moved out of the unit. The Landlord requests an order of possession effective as soon as possible. The Landlord withdraws the claim for recovery of the filing fee.

Analysis

Section 77(3) of the Act provides that except as otherwise provided in this Part, a decision or an order of the director under this Part is final and binding on the parties. As the Landlord has already obtained the rent claimed in this application from the previous decision, I dismiss the claim for unpaid rent.

Section 55(2)(b) of the Act provides that A landlord may request an order of possession of a rental unit where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. Given the undisputed evidence that the Tenant was given the Notice and did not dispute the Notice I find that the Landlord is entitled to an order of possession. As the Landlord has withdrawn the claim for recovery of the filing fee I dismiss this claim.

Conclusion

I grant an Order of Possession to the Landlord effective two days after service on the Tenant. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: October 01, 2020

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Residential Tenancy Branch