



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding IMH Pool XVI LP c/o Metcap Living Management
Inc and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act, (the "Act"), for an order of possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on November 10, 2020, for a monetary order for unpaid rent and storage locker fee, to retain the security deposit in partial satisfaction of their claim, and an order to recover the cost of filing the application from the tenant.

The landlord's agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord's agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on January 25, 2021, a Canada post tracking number was provided as evidence of service. The agent stated that the package was successfully delivered to the tenant on February 2, 2021.

I find that the tenant has been duly served in accordance with the Act.

The landlord's agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The landlord's agent request that application be amended to include subsequent unpaid rent and storage locker fees since filing their application. I find this request is reasonable as rent and storage locker fees are the subject of this application. Therefore,

I will consider subsequent unpaid rent and storage locker fees at this hearing.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary for unpaid rent and storage locker fees?

Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenant was served with the Notice, by regular mail, which was sent on November 10, 2020. The agent stated that the package was not returned. I find the tenant was deemed to have received the Notice on November 15, 2020, five days after it was mailed.

The Notice explains the tenant had 5 days to dispute the Notice or pay the outstanding rent. The Notice further explains if the Notice is not disputed or rent paid within the 5 days that the tenant is presumed to accept the Notice and must move out of the rental unit by the date specified in the Notice, which was November 25, 2020.

The landlord's agent testified that the tenant did not pay rent of \$1,812.00 for November 2020 and the storage locker fee of \$95.00. The landlord stated that the tenant has paid occupancy rent for December 2020, January, and February 2021; however, March 2021 rent has not been paid.

The landlord's agent testified that after the tenant received the application for dispute resolution, the tenant on February 22, 2021 gave notice that they would vacate on March 31, 2021. However, they had already issued the Notice and the tenancy has legally ended.

The landlord's agent testified that they seek an order of possession as November 2020 rent was not paid within 5 days of the tenant receiving the Notice, and that rent remains outstanding. The landlord seeks to recover unpaid rent for November 2020 and subsequent rent for March 2021 for a total amount of \$3,624.00.

The landlord's agent testified that the storage locker fee for November 2020 and March 2021 were not paid. The landlord seeks to recover this fee in the total amount of \$190.00.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, the tenant was served with the landlord's application for dispute resolution as it was successfully delivered to the tenant on February 2, 2021. This is confirmed by the Canada post tracking. As the tenant did not attend this hearing to provide any testimony or evidence, I find the landlord's application is unopposed.

I accept the evidence of the landlord that the Notice was completed in accordance with Part 4 of the Act - How to End a Tenancy, pursuant to section 46, of the Act. A copy of the Notice was filed in evidence for my review and consideration.

I find the Notice was completed in the approved form and the contents meets the statutory requirements under section 52 the Act.

Further, I accept the evidence of the landlord's agent that the tenant was served with the Notice in compliance with the service provisions under section 88 of the Act and was deemed to have received on November 15, 2020.

I am satisfied based on the landlord's agent evidences that the landlord has met the statutory requirements under the Act to end a tenancy.

The tenant did not pay the outstanding rent, nor did the tenant apply to dispute the Notice and therefore conclusively presumed under section 46 (5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, which was November 25, 2020. I find the tenancy legally ended on November 25, 2020.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

I accept the evidence of the landlord's agent that the rent for November 2020, was not paid and further subsequent rent for March 2021 has not been paid. I find the tenant has breached the Act and this has caused losses to the landlord. Therefore, I find the landlord is entitled to recover unpaid rent in the amount of **\$3,624.00**.

I accept the evidence of the landlord's agent that the tenant failed to pay the storage locker fee for November 2020, and March 2021. Therefore, I find the landlord is entitled to recover storage lockers fees in the amount of **\$190.00**.

I find that the landlord has established a total monetary claim of **\$3,914.00** comprised of the above amounts and to recover the \$100.00 filing fee from the tenant for this application. I order that the landlord retain the security deposit of \$906.00 in partial satisfaction of the claim and I grant the landlord a formal order for the balance due of **\$3,008.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant

Conclusion

The tenant failed to dispute the Notice and failed to pay November 2020, rent. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession and may keep the security deposit in partial satisfaction of the claim and is granted a monetary order for the balance due.

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: March 09, 2021

Residential Tenancy Branch