



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPRM-DR, OPR-DR, FFL

Introduction

This hearing was initiated by way of a Direct Request Proceeding but was reconvened as a participatory hearing.

The reconvened hearing was held to consider the Landlord's application for an Order of Possession, for a monetary Order for unpaid rent, and to recover the fee for filing the Application for Dispute Resolution.

The Agent for the Landlord stated that on November 13, 2020 the Dispute Resolution Package and evidence the Landlord submitted to the Residential Tenancy Branch sent to the Tenant at the rental unit, via registered mail. The Landlord submitted a Canada Post receipt that corroborates this testimony. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*.

The Agent for the Landlord stated that on December 22, 2020 Notice of this hearing was sent to the Tenant at the rental unit, via registered mail. The Agent for the Landlord cited a Canada Post tracking number that corroborates this testimony. In the absence of evidence to the contrary, I find that the Tenant was served with notice of the hearing in accordance with section 89 of the *Act*. As the Tenant was served with proper notice of the hearing, the hearing proceeded in his absence.

The Agent for the Landlord gave affirmed testimony.

At the outset of the hearing the Agent for the Landlord stated that the rental unit was vacated on March 03, 2021 and he withdrew the application for an Order of Possession.

Issue(s) to be Decided

Is the Landlord is entitled to compensation for unpaid rent?

Background and Evidence

The Agent for the Landlord stated that:

- this tenancy began on October 01, 2020;
- the Tenant is required to pay monthly rent of \$1,995.00 by the first day of each month;
- the Tenant still owes \$995.00 in rent from October of 2020;
- the Tenant still owes \$1,095.00 in rent from November of 2020;
- the Tenant still owes \$1,995.00 in rent from December of 2020;
- the Tenant still owes \$20.00 in rent from January of 2021;
- the Tenant still owes \$1,995.00 in rent from February of 2021;
- the Tenant paid no rent for March of 2021;
- the Landlord would like to amend the Application for Dispute Resolution to include all rent that is currently due;
- a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was posted on the Tenant's door on October 19, 2020;
- the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities declared that the Tenant must vacate the rental unit by November 01, 2020; and
- the Tenant did not dispute the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$1,995.00 by the first day of each month and that the Tenant only paid \$1,000.00 in rent for October of 2020. Section 26(1) of the *Act* requires tenants to pay rent to their landlord. I therefore find that the Tenant must pay the Landlord \$995.00 in rent for October of 2020.

If rent is not paid when it is due, section 46(1) of the *Act* permits landlords to end the by giving appropriate notice to the tenant.

In the absence of evidence to the contrary, I find that on October 19, 2020 a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was posted on the door of the rental unit. I find that this Notice to End Tenancy declared that the Tenant must vacate the rental unit by November 01, 2020, pursuant to section 46 of the *Act*.

Section 46(4) of the *Act* stipulates that a tenant has five days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice to End Tenancy. I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy has ended on November 01, 2020.

As the Tenant did not vacate the rental unit by November 01, 2020, I find that the Tenant is obligated to pay rent, on a per diem basis, for the days the Tenant remained in possession of the rental unit. As the Tenant remained in possession of the rental unit until March 02, 2021, I find that the Tenant still owes the Landlord \$1,095.00 in rent for November of 2020; \$1,995.00 in rent for December of 2020; \$20.00 in rent for January of 2021; \$1,995.00 in rent for February of 2021, and \$128.70 for the two days he remained in possession of the unit in March of 2021.

I find that it was reasonable for the Tenant to conclude that the Landlord is seeking to recover all of the rent that is currently due, including unpaid rent that has accrued since the Application for Dispute Resolution was filed. I therefore grant the application to amend the monetary claim to include all rent that is currently due.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$6,328.70, which includes \$6,228.70 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution.

Based on these determinations I grant the Landlord a monetary Order for \$6,328.70. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court 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 *Residential Tenancy Act*.

Dated: March 11, 2021

Residential Tenancy Branch