



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NEIGHBOURHOOD HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNRL-S, FFL

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities, a monetary Order for unpaid rent or utilities, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on March 05, 2021 the Dispute Resolution Package was sent to the Tenant, via registered mail, at the rental unit. The Landlord submitted Canada Post documentation that corroborates this statement. 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)*. As the documents were properly served to the Tenant, the hearing proceeded in the absence of the Tenant.

On March 11, 2021 the Landlord submitted additional evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was served to the Tenant, via registered mail, on May 03, 2021. In the absence of evidence to the contrary, I accept that this evidence was properly served to the Tenant and it was accepted as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession, to a monetary Order for unpaid rent, and to retain all of part of the security deposit?

Background and Evidence

The Agent for the Landlord stated that:

- this tenancy began in September of 2002;
- the Tenant is currently required to pay monthly rent of \$475.00 by the first day of each month;
- the tenancy agreement that was signed in 2002 declares that the Tenant paid a security deposit of \$414.50;
- by December 31, 2021, the rent was in arrears by \$2,601.00;
- a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, which had an effective date of January 31, 2021, was posted on the door of the rental unit on January 12, 2021;
- the Tenant did not dispute the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities;
- the Tenant is still living in the rental unit;
- the Tenant did not pay any rent for January of 2021;
- the Landlord would like to amend the Application for Dispute Resolution to include unpaid rent for January of 2021; and
- the Landlord would like an Order of Possession that is effective on June 30, 2021.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that currently requires her to pay monthly rent of \$475.00 by the first day of each month; that her rent was in arrears by \$2,601.00 on January 01, 2021; and that her rent is currently in arrears by \$3,076.00.

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.

As the Tenant is required to pay rent when it is due, pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$3,076.00 in outstanding rent to the Landlord.

Section 46(1) of the *Act* entitles landlords to end a tenancy within ten days if rent is not paid when it is due by providing proper written notice. On the basis of the undisputed evidence I find that the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, served pursuant to section 46 of the *Act*, was posted at the rental unit on January 12, 2021.

Section 46 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. 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 this basis I grant the landlord an Order of Possession.

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

I grant the Landlord an Order of Possession that is effective at 1:00 p.m. June 30, 2021. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$3,176.00, which includes \$3,076.00 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to keep the Tenant's security deposit of \$414.50 and interest of \$14.68, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$2,746.82. 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 *Act*.

Dated: May 31, 2021

Residential Tenancy Branch