



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LIMITED PARTNERSHIP and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

CNR-MT, OLC

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, for more time to cancel a Notice to End Tenancy, and for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)*.

The Agent for the Landlord stated that approximately 3 months ago the Tenant personally served him with the Dispute Resolution Package and a copy of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities.

The Tenant did not attend the hearing and the hearing proceeded in the absence of the Tenant.

The Agent for the Landlord was given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. He affirmed that he would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The Agent for the Landlord was advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. He affirmed that he would not record any portion of these proceedings.

Issue(s) to be Decided

Should the Tenant be granted more time to apply to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities?

Should the Notice to End Tenancy for Unpaid Rent be set aside?

Background and Evidence

The Landlord stated that this tenancy began on August 01, 2020 and that the Tenant agreed to pay rent of \$1,125.00 by the first day of each month.

The Agent for the Landlord stated that on July 09, 2021 he slid a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, which was dated July 05, 2021, under the front door of the rental unit. I am unable to read the effective date of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, although the Agent for the Landlord stated that it reads July 19, 2021.

The Tenant applied to dispute this Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, on July 12, 2021. In the Application for Dispute Resolution the Tenant declared that the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was received on July 05, 2021.

The Agent for the Landlord stated that when this Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was served, the Tenant owed rent of \$2,062.34 in rent. He stated that this rent has not been paid.

The Agent for the Landlord stated that the Tenant lived in the rental unit in August and September of 2021.

The Agent for the Landlord stated that there is still furniture in the rental unit but he does not know if the if the Tenant lived in the rental unit in October of 2021 or if he has simply abandoned his furniture. He stated that the Landlord has not yet taken possession of the rental unit.

Analysis

Section 46(1) of the *Residential Tenancy Act (Act)* permits a landlord to end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

On the basis of the evidence before me, I find that the Tenant received this Ten Day Notice to End Tenancy for Unpaid Rent or Utilities on, or before, July 09, 2021.

Section 46(4) of the *Act* stipulates that within five days after receiving a notice under this section, the tenant may pay the overdue rent, in which case the notice has no effect, or dispute the notice by making an application for dispute resolution.

Even if I accepted that the Tenant received the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities on July 5, 2021, as the Tenant contends, I find that the Tenant filed his Application for Dispute Resolution in accordance with the timelines established by the *Act*. In the event the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was received on July 05, 2021, the deadline for filing an application to dispute it was July 10, 2021, as the Tenant was required to file his application to dispute the Notice within five days of receiving it. When the deadline for filing an Application for Dispute Resolution falls on a Saturday, the deadline is automatically extended to the next business day. As July 10, 2021 was a Saturday, I find that the deadline for filing the Tenant's application to cancel the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities is automatically extended to July 12, 2021.

On the basis of the testimony of the Agent for the Landlord, I find that the Tenant owed \$2,062.34 in rent when this Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was served to the Tenant. On the basis of the testimony of the Agent for the Landlord, I find that the Tenant has not yet paid the rent that was outstanding when the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was served. As the outstanding rent was not paid within five days of receiving the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, I find that the tenancy ended on the effective date of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities.

On the basis of the Agent for the Landlord's testimony, I find that the declared effective date on the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was July 19, 2021. As such, I find that this tenancy ended on July 19, 2021.

As I have concluded that the Landlord has the right to end this tenancy, pursuant to section 46 of the *Act*, I dismiss the Tenant's application to cancel the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities.

Section 55(1) of the *Act* stipulates that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if the landlord's notice to end tenancy complies with section 52 of the *Act* and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

As the application to set aside the Ten Day Notice to End Tenancy has been dismissed and the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities complies with section 52 of the *Act*, I grant the Landlord an Order of Possession, pursuant to section 55(1) of the *Act*.

As the Tenant did not attend the hearing in support of the application for an Order requiring the Landlord to comply with the *Act* and/or the tenancy agreement, that claim is dismissed, without leave to reapply.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with 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 *Residential Tenancy Act*.

Dated: November 12, 2021

Residential Tenancy Branch