



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 OPR-DR-PP, MNR-DR, FFL

Preliminary Matters

I note that street number of the rental address on the Application for Dispute Resolution submitted by the landlord is slightly different than the street number of the rental address shown on the tenancy agreement, the 10 Day Notice, and all other documents submitted with the Application. Section 64(3)(c) of the *Act* allows me to amend the application to match the tenancy agreement and the 10 Day Notice, which I have done.

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession based on unpaid rent, to obtain monetary compensation for unpaid rent, and to recover the filing fee paid for the application.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlord on October 12, 2021.

The landlord submitted two signed Proof of Service Notice of Direct Request Proceeding forms which declare that on October 19, 2021, the landlord sent each tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipts containing the tracking numbers to confirm these mailings.

Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on October 19, 2021 and are deemed to have been received by the tenants on October 24, 2021, the fifth day after their registered mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The landlord submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by a landlord who is not the applicant and the tenants on November 24, 2010, indicating a monthly rent of \$785.00, due on the first day of each month for a tenancy commencing on January 1, 2011
- A copy of a document showing the transfer of management responsibilities to the landlord named as the applicant
- A copy of four Notice of Rent Increase forms showing the rent being increased from \$888.00 to the monthly rent amount of \$1,010.08
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated September 24, 2021, for \$2,355.22 in unpaid rent. The 10 Day Notice provides that the tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the stated effective vacancy date of October 8, 2021
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenants' door at 2:30 pm on September 24, 2021

- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy

Analysis

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the 10 Day Notice was served on September 24, 2021 and is deemed to have been received by the tenants on September 27, 2021, three days after its posting.

I accept the evidence before me that the tenants have failed to pay the rent owed in full within the five days granted under section 46(4) of the *Act* and did not dispute the 10 Day Notice within that five-day period.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, October 8, 2021.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent.

When there have been rent increases, all appropriate Notice of Rent Increase forms must be submitted with the Application for Dispute Resolution to substantiate each stage of the increased rent.

The landlord has submitted a copy of four Notices of Rent Increase showing the rent being adjusted from \$888.00 to \$1,010.08. However, I find the landlord has not submitted a copy of any rent increase forms to establish the rent was legally increased from \$785.00 to \$888.00.

I find I am not able to confirm the amount of rent owing and for this reason the landlord's application for a Monetary Order for unpaid rent is dismissed with leave to reapply

As the landlord was partially successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$100.00 for the recovery of the filing fee for this application. The landlord is provided with this Order in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I dismiss the landlord's application for a Monetary Order for unpaid rent with leave to reapply.

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 23, 2021

Residential Tenancy Branch