



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding INTERGULF DEVELOPMENT
CORP and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

This hearing was scheduled to convene at 11:00 a.m. on June 30, 2022 concerning an application made by the landlord seeking an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application. The application was made by way of the Direct Request Process, which was referred to this participatory hearing and an Interim Decision dated March 21, 2022 was provided to the landlord which required the landlord to serve the Notice of Reconvened Hearing, the Interim Decision and all other required documents upon the tenant within 3 days of receiving the Interim Decision.

An agent for the landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call. The landlord's agent testified that the Interim Decision was received on March 22, 2022 and the tenant was served in accordance with the order by registered mail on March 25, 2022. The landlord has provided a copy of a Canada Post cash register receipt confirming that testimony, and I find that the tenant has been served in accordance with the *Residential Tenancy Act* and the Interim Decision of March 21, 2022.

All evidence of the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord's agent testified that this fixed-term tenancy began on February 1, 2021, and although the tenancy agreement states the end date of the fixed term is July 31, 2022, the landlord's agent believes it's an error and should be July 31, 2021. The landlord doesn't have fixed term tenancies for more than a year, and the tenancy is now considered to be on a month-to-month basis.

Rent in the amount of \$1,000.00 is payable on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$500.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is an apartment in a complex containing 50 units.

The landlord's agent is not certain if the tenant still resides in the rental unit, and has not seen the tenant since January. A friend was there when the landlord's agent attended and said that the tenant was away for a few days. In February, the friend told the landlord's agent that the tenant went to Ukraine to fight the war. Each month the landlord's agent would check. The last time was during the first week of June, 2022 and the friend was still there.

The tenant is currently in arrears of rent the sum of \$7,000.00 for December, 2021 through June, 2022. No rent has been paid by the tenant or the friend of the tenant.

On February 4, 2022 the landlord's agent posted to the door of the rental unit a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and a copy has been provided for this hearing. It is dated February 4, 2022 and contains an effective date of vacancy of February 24, 2022 for unpaid rent in the amount of \$3,000.00 that was due on February 1, 2022. The tenant has not paid any rent and arrears have accumulated to \$7,000.00, which the landlord claims, as well as for the month of July, 2022 and recovery of the \$100.00 filing fee. However, all tenants have been given notice that due to upcoming demolition of the complex in the next few months, tenants are entitled to give only 10 days notice to end their tenancies, and the landlord will pro-rate their rent. None of the tenants have been served with a notice to end the tenancies by the landlord, but an information pamphlet.

The tenant has not disputed the notice to end the tenancy, and the landlord seeks an Order of Possession.

The Interim Decision dated March 21, 2022 referred this matter to a participatory hearing because the landlord's name in the tenancy agreement ends in "Group" while the landlord's name on the Application for Dispute Resolution and the notice to end the tenancy end in "Corp." The landlord's agent testified that there are many different projects of the corporation and each have a different name and use both names, but they are all the same company.

Analysis

Firstly, the *Residential Tenancy Act* specifies that once served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice), the tenant has 5 days to pay the rent in full or dispute the Notice. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy. In this case, I accept that the Notice was served by the landlord's agent by posting it to the door of the rental unit on February 4, 2022, which is deemed to have been served 3 days later, or February 7, 2022. I accept the undisputed testimony of the landlord's agent that the tenant has not paid the rent and arrears continue to accumulate. The landlord's agent also testified that the tenant has not disputed the Notice, and I have no such application before me. I have also reviewed the Notice and I find that it is in the approved form and contains information required by the *Act*. Therefore I grant an Order of Possession in favour of the landlord. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

With respect to the monetary claim, I accept the undisputed testimony of the landlord's agent that the tenant has not paid any rent for the months of December, 2021 through June, 2022, and the landlord is entitled to a monetary order in the amount of \$7,000.00. Since the tenant has not paid the rent, and has not been served with a notice to end the tenancy for demolition, and has not served the landlord with any notice to end the tenancy, I also find that the landlord is entitled to rent for the month of July, 2022.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$8,100.00.

This order is final and binding and may be enforced.

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: July 04, 2022

Residential Tenancy Branch