



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFICA HOUSING ADVISORY
ASSOCIATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent and the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The landlord stated that his evidence package was sent to the tenant on October 07, 2022, by registered mail and filed a copy of the registration slip. The tenant agreed that she had received a notification that she had registered mail but was not able to pick it up. The tenant stated that she had not served the landlord with her evidence package. Accordingly, the landlord's evidence was used in the making of this decision but the tenant's evidence was not.

Issues to be decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee?

Background and Evidence

The tenancy started in April 2005. The housing is subsidized, and the rent is based on the tenant's financial situation which is assessed every year. The last time the tenant paid rent was in August 2022 in the amount of \$591.00. The market rent is \$910.00 due on the first of each month.

The landlord testified that the paperwork for the annual review was mailed to the tenant and follow up letters were sent on May 27, 2022 and July 08, 2022. The tenant stated that she did not receive any mail from the landlord. The landlord confirmed the address that the mail was sent to, and the tenant acknowledged that it was her home address.

Since the landlord did not receive paperwork to assess the subsidized rent for the tenant, the rent reverted to the market rent of \$910.00, effective August 2022. The tenant paid subsidized rent for August in the amount of \$591.00 even though she did not have an approved subsidy. On September 01, 2022, the tenant failed to pay rent and on September 09, 2022, the landlord served the tenant with a notice to end tenancy for unpaid rent in the amount of \$1,299.00 which included \$319.00 for August and \$910.00 for September 2022. The notice was posted on the tenant's door in the presence of a witness. The landlord filed a witness statement.

The tenant did not dispute the notice to end tenancy and did not pay rent. The tenant stated that she submitted the paperwork for her annual review and the staff in the landlord's office lost it. The tenant also stated that a staff member told her not to pay rent till this hearing was complete.

The tenant continues to occupy the rental unit from September 2022 to February 2023 without paying rent. The landlord testified that at the time of the hearing the tenant owed \$5,779.00 in unpaid rent. The landlord is applying for an order of possession effective February 28, 2023, and for a monetary order in the amount of \$5,779.00 for unpaid rent.

Analysis

Based on the sworn testimony of both parties, I accept the landlord's evidence in respect of the claim. The tenant is deemed to have received the notice to end tenancy for unpaid rent, on September 12, 2022, and did not full pay rent within five days of receiving the notice to end tenancy nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective on February 28, 2023. The Order may be filed in the Supreme Court for enforcement.

I further find that the landlord is entitled to \$5,779.00 for unpaid rent. Since the landlord has proven his case, I award him the recovery of the filing fee of \$100.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the total amount of \$5,879.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession **effective February 28, 2023**, and a monetary order for **\$5,879.00**.

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: February 10, 2023

Residential Tenancy Branch