



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

This hearing was scheduled to convene at 11:00 a.m. on March 7, 2023 concerning an application made by the landlords 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.

One of the landlords attended the hearing, gave affirmed testimony and represented the other landlord. 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 testified that the tenant was served with the Notice of Dispute Resolution Proceeding and all of the landlords' evidentiary material by registered mail and has provided a photograph of an Xpresspost envelope addressed to the tenant, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*. All evidence of the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Have the landlords established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 9, 2023 was issued in accordance with the *Residential Tenancy Act*?
- Have the landlords established a monetary claim for unpaid rent?

Background and Evidence

The landlord testified that at the end of November, 2022 a previous occupant moved out of the rental unit. The landlords do not reside in the same community, and the tenant

learned that the rental unit was vacant and called the landlord on December 5, 2022 asking if he could move in with his 2 children. The landlord told the tenant that references were required, and the tenant agreed. However, the tenant obtained the keys to the rental unit from the previous occupants on December 6, 2022 and moved in without the landlords' consent.

The parties orally agreed to rent in the amount of \$2,000.00 per month, which was less than the advertisements of \$2,150.00, copies of which have been provided for this hearing. The parties also agreed that rent would be payable on the 15th day of each month. The landlord did not collect a security deposit or a pet damage deposit from the tenant.

The tenant paid a total of \$850.00 during the tenancy, and the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by posting it to the door of the rental unit on January 10, 2023. A copy of the Notice has been provided for this hearing and it is dated January 9, 2023 and contains an effective date of January 10, 2023 for unpaid rent in the amount of \$2,000.00 that was due on January 1, 2023. Photographs of the posted Notice have also been provided for this hearing.

The tenant has not served the landlords with a Notice of Dispute Resolution Proceeding disputing the Notice, and the tenant is in arrears of rent the sum of \$6,000.00 for December 15, 2022 to January 14, 2023 and January 15, 2023 to February 14, 2023 and February 15, 2023 to March 15, 2023.

Analysis

I have reviewed all of the landlords' evidence, and I am satisfied that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice) is in the approved form and contains information required by the *Residential Tenancy Act*. The law also states that once served with such a Notice, the tenant has 5 days to pay the rent in full or to dispute the Notice. I accept the undisputed testimony of the landlord that the tenant has not paid the rent, and has not served the landlord with a Notice of Dispute Resolution Proceeding disputing the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and I have no such application before me.

Although the Notice states that the tenant must vacate on January 10, 2023, the law specifies that incorrect effective dates are changed to the nearest date that complies with the law. Since the Notice was served on January 10, 2023 by posting it to the door of the rental unit, the effective date of vacancy is changed to January 23, 2023. Since

that date has passed, I grant an order of possession in favour of the landlords effective on 2 days notice to the tenant. The tenant must be served with the order of possession, which may be filed in the Supreme Court of British Columbia for enforcement.

I also accept the undisputed testimony of the landlord that the tenant has paid a total of \$850.00 during the tenancy. I find that the tenant ought to have paid \$2,000.00 on December 15, 2022, \$2,000.00 on January 15, 2023, and \$2,000.00 on February 15, 2023, for a total of \$6,000.00. I find that the landlords are entitled to recovery of \$5,150.00.

Since the landlords have been successful with the application the landlords are also entitled to recovery of the \$100.00 filing fee.

I grant a monetary order in favour of the landlords as against the tenant in the amount of \$5,250.00. The tenant must be served with the order, which may be filed in the Provincial Court of British Columbia, Small Claims division as a judgment.

Conclusion

For the reasons set out above, I hereby grant an order of possession in favour of the landlords effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$5,250.00.

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: March 07, 2023

Residential Tenancy Branch