



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

Introduction

The tenants applied to the Residential Tenancy Branch [the 'RTB'] for Dispute Resolution. The tenants ask me to cancel a 10-day Notice to End Tenancy, issued by the landlords on or about 3 May 2023 [the 'Notice'].

The partnered landlords appeared at the hearing on 22 June 2023 by way of an agent. The tenants did not appear.

Preliminary Matter - Non-appearance at the Hearing

The tenants did not attend this hearing, although I left the teleconference hearing connection open throughout the hearing which commenced at 1100 hours and ended at about 1128 hours. I confirmed:

1. that the RTB had provided the correct call-in numbers and participant codes in the Notice of Hearing, sent to the tenants on 5 May 2023;
2. that the RTB sent a reminder to the tenants of this hearing and how to participate on 19 June 2023; and
3. by reviewing the teleconference system, that the landlords and I were the only ones who had called into this teleconference.

Rule 7.3 of the RTB Rules of Procedure reads:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The tenants failed to attend this hearing, but I conducted it in their absence. I was satisfied that the tenants had notice of this hearing and how to participate.

Issue to be Decided

Did the Notice end the tenancy?

Background and Evidence

The landlords affirmed the following about this tenancy:

1. the parties agreed that rent was to be \$1,855.00 *per* month due on the first of each month;
2. the tenants moved in on 14 April, and paid a security deposit of \$975.00 upon moving in;
3. but since moving in, the tenants have paid nothing more.

As a result, the landlords drew up the Notice. In drafting this Notice, the landlords:

1. used the form approved by the RTB;
2. signed and dated the Notice;
3. recorded the address of the rental unit;
4. recorded the effective date of the Notice as 15 May 2023; and
5. stated the basis for the Notice as the tenants' failure to pay rent.

The landlords then served the notice on the tenants on 2 May by posting it on the door of the rental unit.

Since then, the tenants have continued to not pay any rent at all. The landlords calculate that, as of the date of this hearing, the tenants owe:

- \$1,051.17 for April, pro-rated from a move-in date of 14 April;
- \$1,855.00 for May; and
- \$1,855.00 for June.

The landlords affirmed that this totals \$4,761.17.

Analysis

Though this is an application by the tenants to cancel the Notice, and the tenants have not prosecuted their application, section 55 (1) of the *Residential Tenancy Act* [the 'Act'] still requires me to grant an order of possession if the Notice is effective.

And section 52 of the Act tells us that for a notice to end tenancy to be effective:

1. a landlord must sign it and date it;
2. it must give the address of the rental unit, and state the effective date of the notice;
3. it must also state the grounds for ending the tenancy; and
4. it must be in an RTB form.

Based on the uncontroverted evidence at this hearing, I find the Notice is an effective one, and should be upheld. As the landlords sent the Notice by posting it on the door of the unit on 2 May, I deem that the tenants received the Notice on 5 May (*per* section 90 (c) of the Act). This means that the tenancy ended on 15 May (*per* section 46 (1) of the Act).

Accordingly, I am required to grant an order of possession.

Furthermore, section 55 (1.1) requires that, in these circumstances, I also order that the tenants pay the landlords unpaid rent for April, May and June. I accept the landlords' uncontroverted evidence that this amounts to \$4,761.17.

Conclusion

I make an Order of Possession in favour of the landlords. This order is effective two days after the landlords serve it upon the tenants. If the tenants or any occupant of the rental unit fails to comply with my order, then the landlords can file this order with the Supreme Court of British Columbia, and enforce it as an order of that court.

At the end of the tenancy the tenants must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Tenants and landlords both have an

obligation to complete a move-out condition inspection at the end of the tenancy. To learn about obligations related to security deposits, damage and compensation, search the RTB website for information about after a tenancy ends.

I also order that the tenants pay to the landlords \$4,761.17 for unpaid rent *per* section 55 (1.1) of the Act.

I authorise the landlords to retain the tenants' security deposit of \$975.00 in partial satisfaction of this sum *per* section 72 (2) (b) of the Act.

The landlords must serve this order on the tenants as soon as possible. If the tenants do not comply with my order, then the landlords may file this order in the Small Claims Division of the Provincial Court of British Columbia. Then the landlords can enforce my order as an order of that court.

I make this decision on authority delegated to me by the Director of the RTB *per* section 9.1(1) of the Act.

Dated: 27 June 2023

Residential Tenancy Branch