



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding PANGU HOLDINGS CORP. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNRL, MNDL, FFL

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an order of possession and a monetary order for unpaid rent or utilities; a monetary order for damage to the rental unit or property; and to recover the filing fee from the tenant for the cost of the application.

An agent for the landlord company and the tenant attended the hearing and each gave affirmed testimony. An Interpreter also attended on behalf of the landlord who was affirmed to well and truly interpret the hearing from the English language to the landlord's Native language and from the landlord's Native language to the English language to the best of the Interpreter's skill and ability. The parties were also given the opportunity to question each other.

The tenant has not provided any evidentiary material, and the landlord's agent submitted that all of the landlord's evidence has been provided to the tenant. That submission was not disputed by the tenant, and 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?
- Has the landlord established a monetary order as against the tenant for damage to the rental unit or property?

Background and Evidence

The landlord's agent testified that this fixed-term tenancy began on January 1, 2018 and reverted to a month-to-month tenancy after December 31, 2018 and the tenant still resides in the rental unit. Rent in the amount of \$1,900.00 is payable on the 1st day of each month, however a copy of the tenancy agreement has been provided for this hearing which is silent on the date that rent is payable. The landlord's agent testified that it is meant to be paid on the 1st day of each month, but the tenant has never paid rent on the 1st day of each month since the beginning of the tenancy. The tenancy agreement also specifies a security deposit in the amount of \$950.00 to be paid by January 1, 2018, but the tenant didn't pay it. The landlord allowed the tenant to move into the rental unit without a security deposit because the parties had a casual relationship by then. No pet damage deposit was collected.

The landlord's agent further testified that on March 21, 2024 the landlord served the tenant with a 10 Day Notice to End Tenancy For Unpaid Rent or Utilities (the Notice) by posting it to the door of the rental unit, and has provided a photograph of the Notice on the door. A copy of the Notice has been provided for this hearing and it is dated March 21, 2024 and contains an effective date of vacancy of March 31, 2024 for unpaid rent in the amount of \$19,600.00 that was due on March 31, 2024. The tenant has not served the landlord with an Application for Dispute Resolution disputing the Notice and has not paid the outstanding rent.

The landlord's agent also testified that the rental arrears consist of 3 parts. The first part is for \$79,800.00, then the tenant moved out on June 30, 2021 and sublet the rental unit to an unknown person for \$2,100.00 or \$2,200.00 per month and kept the rent money. The second part is \$52,500.00 and refers to the time that the tenant had sublet the rental unit for \$2,100.00 or \$2,200.00 rent. The landlord's agent asked the tenant for \$19,600.00, which is the third part.

During cross examination the landlord's agent was asked about the "casual relationship" and whether or not the parties lived together, had a child together, and purchased property together, to which the landlord's agent replied that the parties do have a child together but never lived together or purchased any property together.

The tenant testified that the tenant did not sign the tenancy agreement provided by the landlord. The landlord is the tenant's ex-partner and they lived together in the rental unit for 7 years. It is a forged document with a forged signature.

The parties have a 5 year old child. Police and the Court do not let the landlord have access to the apartment due to the separation of the parties, and the tenant has filed a

claim in the Supreme Court of British Columbia about how to separate properties, decide on child care, and support. The landlord does not pay any child support currently.

The rental unit is the tenant's home. The tenant moved out temporarily but moved back.

The landlord's purpose for this hearing is to get money from the tenant stating that the tenant hasn't paid rent; to kick the tenant and child out so that the landlord can take the child to live with him and his wife, and not pay any child support. The parties were not married, but lived in a common-law relationship.

Analysis

Firstly, where a landlord seeks an order of possession for unpaid rent or utilities, the landlord must establish that a tenancy was created. In this case, I have reviewed the tenancy agreement, which does not include the surname of the tenant in the signature, but only a handwritten first name that appears to be very ordinary hand-writing. The tenant denies signing it at all. The alleged tenancy agreement does not contain a date that it was signed by the tenant, but contains the landlord's signature dated January 1, 2018. The notice to end the tenancy states that the tenant failed to pay rent in the amount of \$19,600.00 that was due on March 31, 2024. If rent is \$1,900.00 per month, that would amount to 10 months and several days.

The landlord's agent testified that rent is owed in 3 parts: \$79,800.00, then \$52,500.00 and the landlord asked for \$19,600.00, which is the 3rd part. That makes absolutely no sense. The alleged tenancy agreement commenced on January 1, 2018.

I also consider the testimony of the landlord's agent that the parties had a "casual relationship," and then agreed that they had a child together. That is hardly casual in my opinion.

I accept the undisputed testimony of the tenant that a Supreme Court action has been commenced. The *Residential Tenancy Act* states that I have no jurisdiction to hear a dispute if the matter is primarily before the Supreme Court. I cannot decline jurisdiction because neither party has provided me with a copy of the pleadings, and it is not clear to me that the residential property that is the subject of this dispute is included in those pleadings.

However, I am satisfied that the landlord is attempting to circumvent the Supreme Court action.

I reject the landlord's testimony in its entirety, and I dismiss the landlord's application in its entirety without leave to reapply. I find that the parties had a romantic relationship and no tenancy existed at all.

Since the landlord has not been successful with the application the landlord is not entitled to recover the filing fee from the tenant.

Conclusion

For the reasons set out above, the landlord's application is hereby dismissed in its entirety without 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: May 02, 2024

Residential Tenancy Branch