



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Fraser Valley Kinsmen Housing Society and Terra Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession for Unpaid Rent, a monetary Order for unpaid rent and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony and to make submissions during the hearing.

Preliminary Matters

The application was amended to include a claim for unpaid rent to February 2014, inclusive.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order for unpaid rent?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced on October 1, 2012. Subsidized rent is due on or before the first day of each calendar month.

A June 7, 2013 copy of a BC Housing Application for Rent Subsidy was supplied as evidence. The rent subsidy document indicated that economic rent was \$785.00; subsidized rent was \$595.00. The tenant did not dispute the rent owed that is in dispute was \$670.00 per month.

The landlord stated that on December 3, 2013 a 10 day Notice ending tenancy for unpaid rent or utilities, which had an effective date of December 16, 2013, was served by posting to the tenant's door.

The tenant said she did receive a 10 day Notice, but it was issued on January 2, 2014, not in December. The tenant said a copy of the December Notice was not in the hearing package the landlord served.

The January 2, 2014 Notice indicated that the Notice would be automatically cancelled if the landlord received \$1,340.00 within 5 days after the tenant was assumed to have received the Notice. The Notice had an effective date of January 15, 2014.

The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within 5 days.

The landlord has requested compensation for unpaid rent from December 2013 to February 2014, inclusive.

The tenant confirmed receipt of the January 2, 2014 Notice ending tenancy and that she has not paid rent since November 2013. The tenant did not dispute any of the details of the Notice set out by the landlord during the hearing. The tenant had a copy of the Notice for her own reference.

The tenant said the landlord has not replied to her repeated voice mails requesting repairs to the unit. The tenant confirmed that she has not submitted an application for dispute resolution and that she does not have an Order allowing her to withhold rent.

The tenant believed that section 32 of the Act allowed her to withhold rent.

Analysis

Based on the affirmed testimony of the tenant I find that she received a 10 day Notice to end tenancy for unpaid rent after it was posted to her door on January 2, 2014.

The Notice required the tenant to pay rent in the sum of \$1,340.00 no later than January 7, 2014. The tenant confirmed she did not pay the rent owed and that she did not have an Order allowing her to withhold rent payments.

Therefore, based on the testimony of the tenant, I find that the tenant was served with a Notice ending tenancy that required the tenant to vacate the rental unit on January 15, 2014; the effective date of the Notice, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has 5 days from the date of receiving the Notice ending tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenant exercised either of these rights; therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended on the effective date of the January 2, 2014 Notice; January 15, 2014.

In the absence of evidence to the contrary, I find that the tenant has not paid rent in the amount of \$2,010.00 for December 2013 to February 2014 inclusive, and that the landlord is entitled to compensation in that amount.

I find that the landlord's application has merit and, pursuant to section 72 of the Act that the landlord is entitled to recover the \$50.00 filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord has been granted an Order of Possession that is effective 2 days after service to the tenant. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Based on these determinations I grant the landlord a monetary Order in the sum of \$2,010.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The landlord had applied requesting an order of possession based on the December 3, 2013 Notice; however, pursuant to section 62(3) of the Act, I have considered the merits of the January 2, 2014 Notice, as it was not in dispute.

The parties were provided with an explanation of section 32 of the Act and section 26, which indicates the tenant must pay rent even if the landlord fails to comply with the legislation.

Conclusion

The landlord is entitled to an Order of possession and monetary Order for unpaid rent.

The landlord is entitled to filing fee costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 03, 2014

Residential Tenancy Branch

