Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 66707 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

<u>Dispute Codes</u>   OPR, MNR, MNDC, FF

<u>Introduction</u>

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed or compensation for damage or loss, and to recover the filing fee.

The landlord attended; the tenant did not attend the telephone conference call hearing.

The landlord gave evidence that he served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on January 27, 2014. The landlord supplied testimony of the tracking number of the registered mail.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing in a manner complying with section 89(1) of the Residential Tenancy Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

<u>Issue(s) to be Decided</u>

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, monetary compensation and to recover the filing fee?

Background and Evidence

The landlord gave evidence by way of a written tenancy agreement which shows that this 2 month, fixed term tenancy began on November 1, 2013, was set to end on December 31, 2013, monthly rent is $950, and tenant did not pay a security deposit.

The landlord submitted that the terms of the written tenancy agreement required the tenant to vacate the rental unit on December 31, 2013, and that he has not yet moved out.

The landlord gave evidence that on January 11, 2014, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by attaching it to the tenant's door, listing unpaid rent of $1600 as of December 1, 2013. The effective vacancy date listed on the Notice was January 21, 2014.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenant has only paid $300 in rent since the beginning of the tenancy, and now owes $4450 in total rent through March 2014.

I have no evidence before me that the tenant applied to dispute the Notice.

Analysis

Based on the oral and written evidence and on a balance of probabilities, I find as follows:

Section 44 (1) (b) of the Residential Tenancy Act provides that a fixed term tenancy ends if the tenancy agreement provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy.

Additionally section 55 (2) states that a landlord may request an order of possession if the tenancy agreement is a fixed term tenancy agreement that provides the tenant will vacate the rental unit at the end of the fixed term.

Upon review of the tenancy agreement, I find the landlord the landlord and the tenant agreed that the tenant must vacate the rental unit at the end of the fixed term as

required under the Act and that he failed to do so. I therefore find the landlord is entitled to an order of possession for the rental unit.

Due to the tenant's failure to vacate the rental unit by December 31, 2013, I find the tenant is overholding in the rental unit and his breach of the Act and the tenancy agreement have caused the landlord to suffer a loss of revenue for the months of January, February and March 2014, for a total of $2850. I therefore grant the landlord a monetary award in this amount.

As to the unpaid rent for the November and December 2013, I find the landlord submitted sufficient evidence that the tenant owed a total of $1900 for the two months, or $950, as per the tenancy agreement, and that he paid the amount of $300.

I therefore find the landlord is entitled to a monetary award for unpaid rent for November and December in the amount of $1600.

I award the landlord recovery of the filing fee of $50.

Due to the above, I find the landlord is entitled to a monetary award of $4500, comprised of loss of rent revenue for January, February, and March in the amount of $2850, unpaid rent for November and December of $1600, and the filing fee of $50.

Conclusion

The landlord's application has been granted.

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of his monetary award in the amount of $4500, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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* and is being mailed to both the applicant and the respondent.

Dated: March 13, 2014

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Residential Tenancy Branch