



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1963 Investments Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR

Introduction

This hearing was reconvened from an Interim Decision through the direct request proceedings dated February 4, 2020 (the “Interim Decision”) in response to an application by the Landlord pursuant to section 55 of the *Residential Tenancy Act* (the “Act”) for an Order of Possession.

The Tenant did not attend the hearing. The Landlord appeared. The Interim Decision accepted the service of the Landlord’s application for dispute resolution and as the matter was adjourned to a participatory hearing the Landlord was ordered to serve the Notice of Reconvened Hearing and Interim Decision and all other required documents (the “Materials”) within three days receipt of the Interim Decision. The Interim Decision was received by the Landlord on January 28, 2020 and the Tenant was served with the materials by registered mail on January 30, 2020 in accordance with the order in the Interim Decision. The Landlord was given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The tenancy under written agreement started on September 1, 2015. Rent of \$668.85 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$325.00 as a security deposit. The Tenant owed rental arrears and on January 17, 2020 the Landlord served the Tenant with a 10-day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door. The amount of unpaid rent set out in the Notice is \$1,3337.70 due January 1, 2020. The Notice is on the approved form, is signed and dated January 17, 2020 by the Landlord, and sets out the dispute address and the effective date of April 15, 2019. The Tenant has not moved out of the unit. The Landlord claims only an order of possession.

Analysis

Section 46(1) of the Act provides that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice. Based on undisputed evidence of the non-payment of rent I find that the Landlord ended the tenancy by giving the Tenant the Notice.

Section 3(2) of the *Residential Tenancy (COVID-19) Order, MO 73/2020 (Emergency Program Act)* issued March 30, 2020 (the "Ministerial Order") provides that if a landlord gave a tenant a notice to end the tenancy under sections 46, 47, 48, 49 or 49.1 of the Residential Tenancy Act before the date of this order, then (a) the notice to end the tenancy remains in effect, subject to the dispute resolution process, and (b) an order of possession may be granted under section 55 of the Residential Tenancy Act. Section 55(2)(b) of the Act provides that where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired, a landlord may request an order of possession.

Based on the undisputed evidence that the Notice was issued under section 46 of the Act before the date of the Ministerial Order, the Tenant has not moved out of the unit and did not dispute the Notice within the time allowed, I find that the Landlord has substantiated an entitlement to an order of possession. I grant the Landlord an order of possession effective two days after service of this order on the Tenant. It should be noted that the Ministerial Order may affect the enforcement of the order of possession.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: April 07, 2020

Residential Tenancy Branch