



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding Chilliwack Mountain Services Inc. (formerly 1292816 BC LTD) and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

Tenant's application #*****389: CNR-MT, RR, RP, PSF, OLC, FFT
Landlord's application #*****111: OPR-DR

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear cross applications.

The application #*****389 pursuant to the Act is for:

- Cancellation of a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) pursuant to section 46;
- An order to reduce the rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- An order requiring the landlord to carry out repairs, pursuant to section 32;
- An order requiring the landlord to provide services or facilities as required by the tenancy agreement or the act, pursuant to section 62;
- An order for the landlord to comply with the act, the residential tenancy regulation (the regulation) and/or tenancy agreement, pursuant to section 62;
- An authorization to recover the filing fee for this application, under section 72

The application #*****111 pursuant to the Act is for:

- An order of possession under a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice) pursuant to sections 46 and 55;

Preliminary Matters

Background and circumstances of the tenancies

The landlord submitted a Name Change Certificate to show how their company name had changed since the signing of the tenancy agreement, from 1292816 BC LTD to Chilliwack Mountain Investments Inc.

The original tenancy agreement was between the landlord company, 1292816 BC LTD and JT's company Junk Bin Rentals Incorporated; hereafter referred to as tenant JT. Based on testimony and supplied evidence, I find that this tenancy is one of residential nature, despite the agreement being made between two companies. When asked during the hearing, the landlord reported that JT insisted on using his company's name on the tenancy agreement rather than his own legal name. The tenancy started on April 1, 2023, and was a fixed tenancy ending on March 31, 2024. Rent was \$2,000.00 per month, due on the first day of each month. A security deposit of \$1,000.00 was paid on March 13, 2023.

Separately, and without knowledge of the landlord, JT and RT created a tenancy agreement with JS for a room at the rental unit. It is unclear when this agreement started, but JS submitted a tenancy agreement which included a balance of \$735.00 due on April 20, 2023.

The landlord states that they have not heard from JT since May 2023, and that rent is missing for July 2023 through to the present day. According to JS' application #*****389, JT moved out on July 27, 2023, without notice and JS has not heard from JT ever since then.

According to the landlord, the rental unit is heavily damaged, devoid of most furniture, and currently occupied by JS. I find that tenant JT has abandoned the rental unit and has no intention of returning. Tenant JT has not provided a forwarding address and has not responded to any of the landlord's attempts to communicate via email and telephone.

Should the hearing proceed without any of the tenants?

The landlord and I were in the teleconference for a total of 39 minutes, until 10:09 AM. I checked the internal case management system the day of the hearing and on the morning of October 18, 2023, for any record of contact from the tenants. Rule of

Procedure 7.8 requires the tenants to have a representative attend the hearing and ask for an adjournment if they require one.

During the hearing, the landlord affirmed that they had sent the Notice of Dispute Resolution Proceeding (Proceeding Package), along with all evidence, by registered mail to the rental unit. The Canada Post Tracking Number provided by the landlord to confirm this is listed on the cover page of this decision. I see that the Proceeding Package was sent on September 20, 2023, attempted delivery and was available for pick up on September 25, 2023, then returned to sender on October 13, 2023. I find that tenant JT has abandoned the rental unit and has not provided any forwarding address, nor has tenant JT responded to any communication efforts from the landlord. Tenant JT cannot avoid service by abandoning the unit and ignoring the landlord. Therefore, I deem that tenant JT was duly served the Proceeding Package and the evidence for application #*****111 in accordance with the act.

The landlord was ready to proceed. In the absence of any contact from the tenants to request an adjournment, I proceeded with the hearing as permitted by Rule 7.3.

*Application #*****389*

JS' application was against the individuals whom he thought were the landlords, JT, and RT. Neither the applicant nor the respondents in that application appeared for the hearing. Therefore, this application and all associated claims are dismissed, without leave to reapply.

Evidence and testimony

In addition to the information provided above, the landlord's undisputed testimony and submitted evidence illustrate that the rental unit has become derelict. The landlord stated that they have approached the police to remove JS from the property so that they can take possession – and indicated that the police referred the landlord to the RTB.

The landlord also submitted a company ledger, in the form of an invoice, which shows the unpaid rents for July, August, and September 2023, totalling \$6,000.00. The landlord confirmed that their current application is only seeking possession and that they will file separately for monetary issues if they reestablish contact with tenant JT in the future.

The landlord submitted a copy of their 10 Day Notice, which was dated and signed on September 7, 2023, indicating a move out date of September 19, 2023, and listing \$6,000.00 in unpaid rent due on September 1, 2023. The landlord submitted a photo of the 10 Day Notice being posted to the front gate, right next to the mailbox. The landlord also submitted a #RTB-34 Proof of Service form, detailing how the 10 Day Notice was served on September 7, 2023, by posting in a conspicuous place in the presence of a witness, who signed the form.

Analysis

Is the landlord entitled to an Order of Possession?

Section 46 of the Act states that upon receipt of a 10 Day Notice, the tenant must, within five days, either pay the full amount of the arrears as indicated on the 10 Day Notice or dispute the 10 Day Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant(s) do not pay the arrears or dispute the 10 Day Notice they are conclusively presumed to have accepted the end of the tenancy under section 46(5).

I find that the 10 Day Notice was duly served to tenant JT, and that tenant JT had until September 15, 2023, to dispute the 10 Day Notice or to pay the full amount of the arrears.

Based on the landlord's undisputed and convincing testimony, tenant JT did not pay any of the arrears listed on the 10 Day Notice and did not file to dispute the 10 Day Notice. Therefore, I find that the landlord is entitled to an Order of Possession.

Conclusion

Pursuant to section 55(2)(b), I grant an Order of Possession to the landlord effective **two (2) days after service of this Order on the tenant**. Should the tenant(s) or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

JS' application #*****389 and all associated claims are dismissed, 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: October 18, 2023