



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

This hearing was scheduled to convene at 11:00 a.m. on November 21, 2023 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 and to recover the filing fee from the tenant for the cost of the application.

The landlord was represented at the hearing by an agent who gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

The landlord's agent testified that the tenant was served with the Notice of Dispute Resolution Proceeding and all other required documents by registered mail on October 18, 2023 and has provided copies of a Registered Domestic Customer Receipt stamped with that date by Canada Post and a Canada Post cash register receipt containing that date and a tracking number. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence, with the exception of the landlord's late evidence has been reviewed and the evidence I find relevant to the application 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 dated October 4, 2023 was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord's agent testified that this fixed-term tenancy began on June 1, 2023 and reverts to a month-to-month tenancy after May 31, 2024, and the tenant still resides in the rental unit. Rent in the amount of \$1,505.00 is payable on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$752.50 which is still held in trust by the landlord and no pet damage deposit was collected. The rental unit is a bachelor apartment in a 137 unit apartment building. A copy of the tenancy agreement has been provided for this hearing, which is not signed by the tenant. The landlord's agent testified that the tenant could not sign it or hold a pen because the tenant is paraplegic.

The landlord's agent further testified that no rent was paid for the month of October, 2023 and on October 4, 2023 the tenant was served with a 10 Day Notice to End Tenancy For Unpaid Rent or Utilities by attaching it to the door of the rental unit with a witness. A copy of the Notice has been provided for this hearing and it is dated October 4, 2023 and contains an effective date of vacancy of October 17, 2023 for unpaid rent in the amount of \$1,505.00 that was due on October 1, 2023.

No rent has been paid for November, 2023, and the landlord seeks a monetary order for 2 months rent, totaling \$3,010.00 and recovery of the \$100.00 filing fee.

Analysis

The *Residential Tenancy Act* states that once served with a 10 Day Notice to End Tenancy For Unpaid Rent or Utilities (the Notice), the tenant has 5 days to pay the rent in full or dispute the Notice. If the tenant does neither within that 5 day period, the tenant is conclusively presumed to have accepted the end of the tenancy.

In this case, I accept the undisputed testimony of the landlord's agent that the tenant was served with the Notice by posting it to the door of the rental unit on October 4, 2023, which is deemed to have been served 3 days later, or October 7, 2023. I also accept that the tenant did not pay the rent in full and I have no application from the tenant disputing the Notice. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an order of possession. Since the effective date of vacancy has passed, I grant the order of possession effective on 2 days notice to the tenant. The tenant must be served with the order of possession which may be filed in the Supreme Court of British Columbia for enforcement.

I also accept the undisputed testimony of the landlord's agent that the tenant has not paid any rent for the months of October or November, 2023, and the landlord is entitled to recover the arrears of rent in the amount of \$3,010.00.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

I grant a monetary order in favour of the landlord as against the tenant in the amount of \$3,110.00. The tenant must be served with the order, which may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as an order of that Court.

I leave it to the parties to deal with the security deposit in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

For the reasons set out above, I hereby grant an order of possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$3,110.00.

This order is final and binding and may be enforced.

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: November 21, 2023

Residential Tenancy Branch