



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

OPR

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

I reviewed the evidence on the case file prior to the Hearing. The Landlord gave affirmed evidence and this matter proceeded on its merits.

Issue(s) to be Decided

(1) Is the Landlord entitled to an Order of Possession?

Background and Evidence

Landlord's evidence

The Landlord testified that on January 4, 2009 at approximately 3:00 p.m., he personally served the Tenant with a copy of the 10 Day Notice to End Tenancy dated January 4, 2009, at the rental unit.

The Landlord testified that he mailed the Tenant a copy of the Application for Dispute Resolution and hearing package on January 21, 2009 by registered mail. The Landlord testified that the documents were returned to him unclaimed. The Landlord provided a tracking number for the registered mail package, and stated that he checked the

Canada Post tracking system, which confirmed the documents were mailed, but were not claimed.

The Landlord testified that he was provided with the Notice of Hearing by the Residential Tenancy Branch and that the Notice had the wrong city on the Tenant's address (Maple Ridge instead of Mission), but that he advised the Residential Tenancy Branch of the error and mailed the package to the correct address.

The Landlord testified that he spoke to the Tenant on January 1, 2009, who advised him that she could not pay the rent and to go ahead with his application for an Order of Possession. The Landlord testified that the Tenant has not paid rent for the months of January, February and March, 2009, and is still occupying the rental unit.

The Landlord did not apply for a monetary order for unpaid rent for January in the amount of \$450.00, money owed for loss of rent for the months of February and March, 2009, to keep the security deposit in the amount of \$225.00, or to recover the filing fee of \$50.00 from the Tenant.

Analysis

I accept the Landlord's evidence that he served the Tenant with the 10 Day Notice to End Tenancy on January 4, 2009. The effective date of the end of tenancy is therefore January 14, 2009.

Section 90 of the Act stipulates that a document is deemed to be received, if given or served by mail, on the 5th day after it is mailed. I find that the Tenant is deemed to have been served with the Notice of Hearing and Application for Dispute Resolution on January 26, 2009.

The Landlord is entitled to an immediate Order of Possession and I make that order.

I hereby grant the Landlord leave to apply for a monetary order for unpaid rent, loss of rent, and to keep the security deposit together with interest accrued thereon.

Conclusion

The landlord is at liberty to apply for a monetary order.

Under section 55 of the Act, and based on the above facts I find that the Landlord is entitled to an Order of Possession and I hereby issue the order effective two days from service of the order. This order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

March 2, 2009
