



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord said that at the end of August he went to the rental unit to collect the rent for September 2009 but the occupants who were there advised him that the Tenant was away and would return soon. The Landlord said that the occupants told him a couple of more times that the Tenant would return in a few weeks and then finally advised him that they did not know where the Tenant was and did not think she would return. The Landlord said there are currently between 10 and 15 persons residing in the rental unit who he does not know and who are not authorized to be there.

Consequently, the Landlord served the Tenant with the Application and Notice of Hearing in this matter by registered mail addressed to the rental unit on October 19, 2009. According to the Canada Post online tracking system, the hearing package was returned to the Landlord by the occupants who claimed that the Tenant was not at that address. In the circumstances I find that the Tenant was served as required by s. 89 of the Act and the hearing proceeded in her absence.

Issues(s) to be Decided

1. Is the Landlord entitled to end the tenancy?
2. Are there arrears of rent and if so, how much?

Background and Evidence

This tenancy started sometime prior to July 2009. Rent is \$600.00 per month payable in advance on the 1st day of each month. The Landlord said that the Tenant did not pay September 2009 rent and did not pay October 2009 rent when it was due and as a result, on October 5, 2009, he posted a 10 day Notice to End Tenancy for Unpaid Rent dated October 5, 2009 on the rental unit door with a witness present.

The Landlord said that the rent arrears are still unpaid and that he believes the occupants in the rental unit are causing significant damage to the interior of the rental

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unit. The Landlord also claimed that when he went to the rental unit to ask the occupants to leave, they slammed the door shut on his fingers and as a result, he contacted the RCMP.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must either pay the amount set out on the Notice or apply for dispute resolution. If a Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the rental unit at that time. Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 3 days after it was posted, or on October 8, 2009. Consequently, the Tenant would have had to pay the amount on the Notice or apply to dispute that amount no later than October 13, 2009.

I find that the Tenant has not paid the amount indicated on the Notice and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect immediately. I also find that the Landlord is entitled to recover rent arrears in the amount of \$1,200.00 as well as the \$50.00 filing fee for this proceeding.

Conclusion

An Order of Possession to take effect immediately and a monetary order in the amount of **\$1,250.00** have been issued to the Landlord. A copy of the Orders must be served on the Tenant; the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 28, 2009.

Dispute Resolution Officer