



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPC, OPB, FF

Introduction

This matter was convened to the Landlord's application for an Order of Possession for unpaid rent; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony.

Preliminary Matter

The Landlord's agent testified that he mailed the Notice of Hearing documents, by registered mail, to the Tenant at the rental unit, on August 6, 2010. The Landlord's agent provided the tracking number for the registered mail document. The Landlord's agent stated that he checked the Canada Post tracking system and discovered that the Tenant had not picked up the documents.

Based on the affirmed testimony of the Landlord's agent, I am satisfied that the Tenant was served with the Notice of Hearing documents in accordance with the provisions of Section 89(1)(c) of the *Residential Tenancy Act* (the "Act"). Service in this manner is deemed to be effected 5 days after mailing the document, whether or not the Tenant chose to accept delivery of the documents. Despite being deemed served with the Notice of Hearing documents, the Tenant did not sign into the teleconference, and the Hearing continued in her absence.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord's agent gave the following testimony:

- The tenancy was a fixed term tenancy, ending July 31, 2010. A copy of the tenancy agreement was entered in evidence. The Tenancy began on May 1, 2010. The Tenant paid a security deposit in the amount of \$325.00 at the beginning of the tenancy.
- At the end of the tenancy, the Tenant remained in the rental unit. The Landlord attempted to phone the Tenant, but the Tenant did not respond to the messages he left. The Landlord's agent left a note on the Tenant's door that the tenancy had ended and that she would have to move out, but the Tenant did not respond to his note.
- The Tenant remains in the rental unit.

Analysis

Based on the undisputed testimony and documentary evidence of the Landlord and its agent, I am satisfied that the tenancy ended on July 31, 2010, and that the Tenant remains in the rental unit. The Landlord is entitled to an Order of Possession and I make that order **effective 2 days after service of the Order upon the Tenant.**

The Landlord has been successful in its application and is entitled to recover the cost of the filing fee from the Tenant. Pursuant to the provisions of Section 72 of the Act, the Landlord may deduct \$50.00 from the security deposit held in trust for the Tenant. The remainder of the security deposit is available upon application by either party, to be administered in accordance with the provisions of Section 38 of the *Residential Tenancy Act*.

Conclusion

I hereby grant the Landlord an Order of Possession **effective 2 days after service of the Order upon the Tenant**. 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.

The Landlord may deduct \$50.00, representing recovery of the filing fee, from the security deposit.

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: August 16, 2010.

Dispute Resolution Officer