



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent and a monetary Order for unpaid rent.

The male Agent for the Landlord stated that he personally served the Tenant with copies of the Application for Dispute Resolution and Notice of Hearing on November 17, 2011. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent, pursuant to sections 55 and 67, of the *Residential Tenancy Act (Act)*.

Background and Evidence

The male Agent for the Landlord stated that this tenancy began on August 01, 2011 and that the Tenant is required to pay monthly rent of \$1,625.00 by the first day of each month.

After considerable confusion and with much assistance from me, the female Agent for the Landlord testified that the Tenant paid no rent when it was due on October of 2011; that she paid no rent in October; that she paid no rent when it was due on November 01, 2011; that on November 01, 2011 the Tenant owed rent of \$3,250.00; that the Tenant paid \$500.00 in rent on November 03, 2011; that the Tenant paid \$1,000.00 in rent on November 17, 2011; that the Tenant paid \$675.00 in rent on November 18, 2011; that the Tenant paid \$1,000.00 in rent on November 21, 2011; and that the Tenant currently owes \$75.00 in rent.

The male Agent for the Landlord initially stated that he posted a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of November 17, 2011, on the door of the rental unit on November 03, 2011. After being advised that the Notice to End Tenancy was dated November 07, 2011, he stated that he made a mistake and that he actually posted the Notice on November 07, 2011.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$1,625.00 on the first day of each month.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant did pay rent when it was due on November 01, 2011 and that she currently owes rent of \$75.00. As she is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$75.00 in outstanding rent to the Landlord.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 46 of the *Act*. Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that a Notice to End Tenancy for Unpaid Rent was posted at the rental unit on November 07, 2011.

Section 90 of the *Act* stipulates that a document that is posted on a door is deemed to be received on the third day after it is posted. I therefore find that the Tenant received the Notice to End Tenancy on November 10, 2011.

Section 46(1) of the *Act* stipulates that a 10 Day Notice to End Tenancy is effective ten days after the date that the tenant receives the Notice. As the Tenant is deemed to have received this Notice on November 10, 2011, I find that the earliest effective date of the Notice is November 17, 2011.

Section 53 of the *Act* stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Notice to End Tenancy was November 17, 2011.

Section 46 of the *Act* stipulates that a Tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy has ended. On this basis I find the Landlord is entitled to an Order of Possession.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant . This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$75.00, in compensation for unpaid rent. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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 30, 2011.

Residential Tenancy Branch