



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, FF

Introduction

This hearing was scheduled in response to the landlords' application for an order of possession / and recovery of the filing fee. The landlords participated in the hearing and gave affirmed testimony. Despite being served in-person on February 15, 2012 with the application for dispute resolution and notice of hearing (the "hearing package"), the tenant did not appear.

During the hearing, the landlords withdrew the aspect of the application concerning recovery of the filing fee.

Issue(s) to be Decided

Whether the landlords are entitled to an order of possession under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on December 13, 2011. Monthly rent of \$925.00 is payable in advance on the first day of each month. Neither a security deposit nor a pet damage deposit was collected.

The landlords issued a 10 day notice to end tenancy for unpaid rent dated January 11, 2012. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. Subsequently, on January 13, 2012 the tenant made a payment toward rent in the limited amount of \$905.00 (overdue balance remaining of \$20.00).

Thereafter, the landlord issued a 10 day notice for unpaid rent dated February 2, 2012. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. Subsequently, the tenant made no further payment toward rent and the tenant continues to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlords, I find that the tenant was served with 2 separate 10 day notices to end tenancy for unpaid rent dated, respectively, January 11 and February 2, 2012. The tenant did not pay the full amount of rent outstanding within 5 days of receiving either notice, and did not apply to dispute either notice. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice(s). Accordingly, I find that the landlords have established entitlement to an order of possession.

Conclusion

I hereby issue an order of possession in favour of the landlords effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia 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: March 01, 2012.

Residential Tenancy Branch