



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"), seeking an order of possession for the rental unit, a monetary order for unpaid rent and to recover the filing fee.

The landlord's agent appeared and gave affirmed testimony.

The tenant did not appear at the telephone conference call hearing. The landlord's agent testified that the tenant was served with the Application for Dispute Resolution and Notice of Hearing (the "Hearing Package") by registered mail on July 6, 2012. The landlord supplied the tracking number and receipt for the registered mail.

I find the tenant was served in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present her evidence orally and to review the documentary evidence timely submitted.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and to recover the filing fee?

Background and Evidence

The landlord's agent was unsure of the date the tenancy began, but submitted that it was approximately a year ago, monthly rent is \$800.00 and a security deposit of \$400.00 was paid by the tenant at the beginning of the tenancy.

The landlord gave affirmed testimony and supplied evidence that on June 15, 2012, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting on the door, listing unpaid rent of \$800.00 as of June 1, 2012. The effective vacancy date listed on the Notice was June 25, 2012. Section 90 of the Act states that documents served in this manner are deemed delivered three days later. Thus the effective move out date is automatically changed to June 28, 2012.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenant had five days to dispute the Notice.

The landlord's agent stated that the tenant failed to pay any rent and now owes a total of \$1600.00 for June and July 2012.

I have no evidence before me that the tenant applied to dispute the Notice.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

I find the tenant did not pay the outstanding rent or apply to dispute the Notice within five days and 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.

Conclusion

I find that the landlord is entitled to an order of possession effective two days after service upon the tenant.

The order of possession is enclosed with the landlord's Decision. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia should the tenant fail to comply with this order of possession.

I find that the landlord has established a total monetary claim of \$1650.00 comprised of outstanding rent of \$1600.00 through July, 2012, and the \$50.00 filing fee paid by the landlord for this application.

I grant the landlord a monetary order pursuant to section 67 of the Act for the amount of \$1650.00 and enclose it with the landlord's Decision. This order is a final, legally binding order, and may be filed in the Provincial Court of British Columbia (Small Claims) should the tenant fail to comply with this monetary order.

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: July 25, 2012.

Residential Tenancy Branch