



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding QINWANG HOLDING LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

Introduction

This matter dealt with an application by the Landlord for an Order of Possession.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on March 19, 2013. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started on November 18, 2011 as a month to month tenancy. Rent is \$650.00 per month payable in advance of the 1st day of each month. The Tenant did not pay a security deposit.

The Landlord said that the Tenant did not pay \$1,300.00 of rent for February and March, 2013, when it was due and as a result, on March 5, 2013 she personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated March 5, 2013 to the Tenant. The Landlord said the Tenant has unpaid rent for April, 2013 as well.

The Landlord further indicated that the Tenant is living at the rental unit and the Landlord requested an order of possession for as soon as possible.

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 pay the overdue rent or apply for dispute resolution. If the 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 they 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 on the day it was personally served, or on March 5, 2013. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than March 10, 2013.

I find that the Tenant has not paid the overdue rent 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 48 hours after service of it on the Tenant.

Conclusion

An Order of Possession effective 2 days after service of it has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in the Supreme 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: April 17, 2013

Residential Tenancy Branch