



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR

Introduction

This hearing was scheduled 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.

The landlord provided affirmed testimony that on May 2, 2013 at 3:30 p.m. he personally served copies of the Application for Dispute Resolution and Notice of Hearing to the tenant, at the rental unit address.

These documents are deemed to have been served in accordance with section 89 of the Act; on the day of personal delivery, however the tenant did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Background and Evidence

The tenancy commenced on February 1, 2013, rent is \$850.00 due on the 1st day of each month. The deposit paid was applied to unpaid February 2013 rent.

The landlord receives a government cheque in the sum of \$450.00 each month; the tenant is pay the balance owed.

The landlord stated that on April 15, 2013 a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of April 25, 2013, was served by registered mail to the rental unit address. The landlord checked the Canada Post web site and found that the tenant had accepted the registered mail.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$475.00 within 5 days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The tenant did not pay the balance of rent owed in April and has paid only \$475.00 in May. There was no evidence that the tenant applied to dispute the Notice.

Analysis

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. The tenant is deemed to have received this Notice on the 5th day after mailing; April 20, 2013.

I find that the effective date of the Notice was April 25, 2013, the date indicated on the Notice.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on April 25, 2013, pursuant to section 46 of the Act.

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; therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended. On this basis I will grant the landlord an Order of Possession that is effective 2 days after the Notice has been issued.

The landlord has been granted 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.

Conclusion

The landlord is entitled to an Order of possession.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: May 29, 2013

Residential Tenancy Branch