



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNDC, MNSD, FF

Introduction:

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and/or utilities, a monetary Order for money owed or compensation for damage or loss; to retain all or part of the security deposit, and to recover the fee for filing an Application for Dispute Resolution.

The Landlord stated that copies of the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were posted on the door of the rental unit on July 02, 2013. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89(2) of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

The Landlord has applied for a monetary Order which requires that the Landlord serve the respondent with the Application for Dispute Resolution pursuant to section 89(1) of the *Act*. Section 89(1) of the *Act* does not permit a landlord to serve documents by posting them at the rental unit. As the Landlord did not establish that the Tenant was served with copies of the Application for Dispute Resolution pursuant to section 89(1) of the *Act*, I find that I am unable to consider the Landlord's application for a monetary Order. On this basis, I dismiss the Landlord's application for compensation for unpaid rent/loss of revenue, with leave to reapply on that specific issue.

The Landlord has applied for an Order of Possession which requires that the Landlord serve the respondent with the Application for Dispute Resolution pursuant to section 89(2) of the *Act*. As the Landlord did serve the Tenant with copies of the Application for Dispute Resolution pursuant to section 89(2) of the *Act*, I find that I am able to consider the Landlord's application for an Order of Possession.

Issue(s) to be Decided:

Is the Landlord entitled to an Order of Possession for unpaid rent?

Background and Evidence:

The Landlord stated that this tenancy began approximately six months ago; that the Tenant is required to pay monthly rent of \$450.00 by the first day of each month; and that the Tenant paid a security deposit of \$200.00.

The Landlord stated that the Tenant still owes \$400.00 in rent for May of 2013, \$450.00 in rent for June of 2013, and \$450.00 in rent for July of 2013.

The Landlord stated that on May 30, 2013 he posted a Ten Day Notice to End Tenancy for Unpaid Rent on the door of the rental unit, which had a declared effective date of May 30, 2013. The Notice declared that the Tenant owed \$400.00 in rent that was due on May 01, 2013.

Analysis

Based on the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$450.00 by the first day of each month and that not all of the rent that was due on May 01, 2013 has been paid.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 46 of the *Act*. In the absence of evidence to the contrary, I find that a Ten Day Notice to End Tenancy, served pursuant to section 46 of the *Act*, was posted at the door of the rental unit on May 30, 2013.

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 June 02, 2013.

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 June 02, 2013, I find that the earliest effective date of the Notice was June 12, 2013.

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 June 12, 2013.

Section 46 of the *Act* stipulates that a tenancy ends on the effective date of the Notice to End Tenancy if the tenant does not either pay the outstanding rent or file an Application for Dispute Resolution to dispute the Notice within five days of receiving the Notice to End Tenancy. 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 that the Landlord is entitled to an Order of Possession.

I find that the Landlord's application has merit and I authorize the Landlord to retain \$50.00 from the Tenant's security deposit in compensation for this fee.

Conclusion

I 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.

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 11, 2013

Residential Tenancy Branch

