



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC TURF LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order and to recover the filing fee from the tenant for the cost of filing this application.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on July 12, 2013, a Canada post tracking number was provided as evidence, the tenant did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act.

The landlord's agent appeared, gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issues to be Decided

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

Is the landlord entitled to a monetary order?

Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenant was served with a notice to end tenancy for non-payment of rent on July 2, 2013, by posting to the door of the rental unit which was witnessed. Section 90 of the Act determines that a document served in this manner is deemed to have been served three days later. I find that the tenant has been duly served in accordance with the Act. Filed in evidence is a copy of the notice dated July 2, 2013.

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

The landlord's agent testified that the tenant provided a post dated cheque for July 13, 2013. The landlord's agent stated the tenant was issued a receipt for use occupancy only. Filed in evidence is a copy of a receipt dated July 12, 2013, for use occupancy only.

The landlord seeks an order of possession.

Analysis

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

The tenant had not paid the outstanding rent within five days as required by the Act. The tenant did not apply to dispute the Notice 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.

On July 12, 2013, the tenant paid rent for July. However, the landlord was not reinstating the tenancy as the rent receipt issued to the tenant was for use and occupancy only.

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of \$50.00 to recover the cost of filing their application.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenant failed to pay rent within five days and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession.

The landlord is granted a monetary order to recover the cost of filing their application.

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: August 14, 2013

Residential Tenancy Branch

