



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR; MNR

Introduction

This is the Landlord's application for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that he posted the Notice of Hearing documents to the Tenant's door on July 22, 2012.

Preliminary Matter

Section 89(2) of the Act provides that the Notice of Hearing documents may be posted to a tenant's door for the purposes of requesting an Order of Possession. Section 89(1) of the Act provides the methods for service of documents when seeking a Monetary Order. There is not provision for service by way of posting to a door when seeking a Monetary Order.

Therefore, based on the affirmed testimony of the Landlord, I find that the Tenant was served with the Notice of Hearing documents for the purposes of requesting an Order of Possession, but not for a Monetary Order.

Pursuant to the provisions of Section 90 of the Act, service is deemed to be effected three days after posting the documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference, which remained open for 15 minutes, and the Hearing proceeded in her absence.

The Landlord's request for a Monetary Order is dismissed **with leave to reapply**.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord provided a copy of the tenancy agreement in evidence. Rent is \$650.00 per month, due on the first day of each month. He stated that the Tenant did not pay rent when it was due on July 1, 2013, so he posted a Notice to End Tenancy for Unpaid Rent (the "Notice") to the Tenant's door on July 4, 2013. The Landlord provided a copy of the Notice in evidence.

The Landlord stated that the Tenant has not moved out of the rental unit and that she has not paid rent for July or August, 2013.

Analysis

I accept that the Landlord served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on July 4, 2010. Therefore I find that the Tenant was deemed served on July 7, 2013.

The Notice indicates that the end-of-tenancy date is July 15, 2013. Section 53 of the Act provides that an incorrect end-of-tenancy date on a notice to end the tenancy is automatically corrected to the earliest date that complies with the Act, which in this case is July 17, 2013.

The Tenant did not pay the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to Section 46(5) of the Act, I find that the Tenant was conclusively presumed to have accepted that the tenancy ended on July 17, 2013.

I find that the Landlord is entitled to an Order of Possession.

Conclusion

I hereby provide the Landlord with an Order of Possession **effective 2 days after service of the Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord's application for a Monetary Order is dismissed with leave to reapply.

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 27, 2013

Residential Tenancy Branch

