



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order. The hearing was conducted via teleconference and was attended by the landlord.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by posting them to the rental unit door on August 2, 2013 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenant on the 3rd day after it was posted.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to Section 89(2) of the *Act* for the purposes of adjudicating the portion of the landlord's Application seeking an order of possession.

However, I find the landlord has failed to serve the hearing documents related to the tenant in accordance with Section 89(1) of the *Act* for the monetary claims. Therefore I dismiss the landlord's monetary claims with leave to reapply under a separate Application for Dispute Resolution.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlord testified the tenancy began on September 11, 2012 as a 1 year and 3 day fixed term tenancy for the monthly rent of \$900.00 due on the 1st of each month and a security deposit of \$450.00 was paid.

The landlord provided into evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on July 24, 2013 with an effective vacancy date of August 4, 2013 due to \$900.00 in unpaid rent and \$305.00 in unpaid utilities that were demanded on July 24, 2013.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of July 2013 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on July 24, 2013 at 10:00 a.m. and that this service was witnessed by a third party.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on July 27, 2013 and the effective date of the notice is amended to August 10, 2013, pursuant to Section 53 of the *Act*. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenant is conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$50.00** comprised of the fee paid by the landlord for this application. I order the landlord may deduct this amount from the security deposit held in the amount of \$450.00 in satisfaction of this claim, leaving a balance of \$400.00 in the security deposit.

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: September 10, 2013

Residential Tenancy Branch

