



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory matter was conducted by way of a direct request proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the "Act"), via the documentary submissions of the landlord, and dealt with an application for dispute resolution by the landlord for an order of possession for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice").

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 6, 2014, the landlord served the tenant with the Notice of Direct Request Proceeding, including the landlord's application, by attaching the documents to the tenant's door. Pursuant to section 90 of the Act, the documents were deemed served 3 days later.

Preliminary matter-Section 89(1) of the Residential Tenancy Act requires that an application for dispute resolution be served upon the respondent (the tenant in this case) by leaving it with the person or by registered mail.

For an order of possession for the rental unit, however, under section 89(2) a landlord is permitted to serve the tenant their application for dispute resolution by attaching the documents to the tenant's door, as is the case here.

As the landlord served the tenant the notice of the dispute resolution proceeding and application for dispute resolution by attaching the documents to the tenant's door, based upon the submissions of the landlord, I therefore find the tenant was served notice of this proceeding and the landlord's application in a manner complying with section 89(2) of the Act and **the matter proceeded on the portion of the landlord's application for an order of possession for the rental unit only.**

I have dismissed that portion of the landlord's application for dispute resolution seeking a monetary order for unpaid rent, with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit?

Background and Evidence

The landlord submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on January 26, 2013, indicating a monthly rent of \$1700 due on the first day of the month beginning April 1, 2013;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated January 28, 2014, with a stated effective move out date of January 6, 2014, listing \$1700 in unpaid rent as of January 1, 2014; and
- A signed Proof of Service that the tenant was served the Notice by attaching it to the tenant's door on January 28, 2014. Section 90 of the Act deems the tenant was served on January 31, 2014. Therefore the effective vacancy date, January 6, 2014, is automatically corrected to January 10, 2014, pursuant to section 53 of the Act.

The Notice stated that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

I have no evidence before me that the tenant paid the rent listed or filed an application for dispute resolution to dispute the Notice.

Analysis

I have reviewed the landlord's documentary evidence and accept that the tenant has been served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities as submitted by the landlord.

I accept the landlord's documentary evidence 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 that 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. Therefore, I find that the landlord is entitled to an order of possession for the rental unit.

Conclusion

Pursuant to section 55(4)(b) of the Act, I grant the landlord an order of possession for the rental unit effective two days after service on the tenant, which is enclosed with the landlord's Decision. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court should the tenant fail to comply with the terms of the order of possession. The tenant is advised that costs of such enforcement may be recovered from the tenant.

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* and is being mailed to both the applicant and the respondent.

Dated: February 12, 2014

