



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of Possession for Unpaid Rent and a monetary Order for unpaid rent.

The agent for the landlord provided affirmed testimony that on May 19, 2014 at noon she personally served the female respondent copies of the Application for Dispute Resolution and Notice of Hearing, at the rental unit address.

These documents are deemed to have been served on the day of personal delivery, in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

The male respondent was not served with Notice of the hearing; therefore, the application is amended to remove the male respondent.

Issue(s) to be Decided

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

Is the landlord entitled to a monetary Order?

Background and Evidence

The tenancy commenced on January 1, 2013; rent is \$750.00 due on or before the 1st day of each month. A copy of the tenancy agreement was supplied as evidence.

The landlord stated that on May 4, 2014 a 10 day Notice ending tenancy for unpaid rent or utilities, which had an effective date of May 14, 2014, was served by posting to the tenant's door. Service occurred at approximately 6 p.m. The landlord and agent posted the Notice.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$750.00 within 5 days after the tenant was assumed to have received the

Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within 5 days.

The tenant has not paid May 2014 rent; the landlord has claimed the sum of \$750.00 for that month.

Analysis

Section 90 of the Act stipulates that a document that is posted on a door is deemed to be received on the 3rd day after it is posted. Therefore, I find that the tenants received the Notice to end tenancy on May 7, 2014.

Section 46(1) of the Act stipulates that a 10 day Notice ending tenancy is effective 10 days after the date that the tenant receives the Notice. As the tenant is deemed to have received this Notice on May 7, 2014, I find that the earliest effective date of the Notice is May 17, 2014.

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 May 17, 2014.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice ending tenancy that required the tenant to vacate the rental unit on May 17, 2014, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has 5 days from the date of receiving the Notice ending tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenant exercised either of these rights; therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended on the effective date of the Notice; May 17, 2014.

In the absence of evidence to the contrary, I find that the tenant has not paid rent in the amount of \$750.00 for May 2014, and that the landlord is entitled to compensation in that amount.

The landlord has been granted an Order of Possession that is effective 2 days after service to 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.

Based on these determinations I grant the landlord a monetary Order in the sum of \$750.00. In the event that the tenant does not comply with this Order, it may be served

on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an Order of possession and monetary Order for unpaid rent.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: May 29, 2014

Residential Tenancy Branch

