



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding The Public Guardian & Trustee for the Estate of Mitsuko Nakaya / The
Wynford Group
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNDC, FF

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. The landlord's agent attended and gave affirmed testimony. The tenant did not appear.

The landlord's agent testified that the application for dispute resolution and notice of hearing (the "hearing package") was served by registered mail sent on July 25, 2014. Evidence provided by the landlord includes the tracking numbers for the registered mail. Evidence provided by the landlord also includes a photocopy of the envelope used for sending the hearing package; the hearing package was returned to the landlord with a notation on the envelope by Canada Post confirming that the package was "Unclaimed." However, pursuant to section 90 of the Act which addresses **When documents are considered to have been received**, I find that the hearing package is deemed to have been received by the tenant on July 30, 2014, which is the 5th day after it was mailed.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began in November 2013. Monthly rent of \$1,000.00 is due and payable in advance on the first day of each month. It is unknown whether a security / pet damage deposit was paid.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated July 04, 2014. The notice was served by way of posting on the unit door on that same date. A copy of

the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is July 19, 2014. Subsequently, the tenant has made no further payment toward rent and he continues to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated July 04, 2014. The tenant did not pay the outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenant 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. Accordingly, I find that the landlord has established entitlement to an **order of possession**. As for compensation, I find that the landlord has established a claim of **\$3,050.00**, as follows:

\$3,000.00: (3 x \$1,000.00) *unpaid rent for July, August & September 2014*

\$50.00: *filing fee*

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 67 of the Act I hereby issue a **monetary order** in favour of the landlord in the amount of **\$3,050.00**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

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 24, 2014

Residential Tenancy Branch

