



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding M'Akola RNH Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR

Introduction

This hearing concerns the landlord's application for an order of possession. The landlord's agents attended and gave affirmed testimony.

The landlord's agents testified that an application for dispute resolution and a notice of hearing were served on each of the 2 tenants by way of registered mail. Evidence submitted by the landlord's agents includes the Canada Post tracking numbers for the registered mail. Despite this, neither tenant appeared.

Issue(s) to be Decided

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

Background and Evidence

The landlord's agents testified that they took over the role of landlord in this tenancy in April 2013, and it is understood that the tenancy itself began in 2000. The landlord's agents testified that monthly rent of \$451.00 is due and payable in advance on the first day of each month.

Pursuant to section 46 of the Act which addresses **Landlord's notice: non-payment of rent**, arising from rent of \$451.00 which was unpaid when due on July 01, 2014, the landlord issued a 10 day notice to end tenancy dated July 11, 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 tenants must vacate the unit is July 23, 2014. Subsequently, the tenants have made the following payments toward rent on the dates specified:

July rent: \$451.00 paid on July 30, 2014
August rent: \$451.00 paid on August 12, 2014
September rent: \$451.00 paid on September 09, 2014

As at the time of this hearing, the landlord's agents testified that no rent had yet been received for October 2014.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agents, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated July 11, 2014. As the notice was served by way of posting on the unit door on that same date, pursuant to section 90 of the Act which addresses **When documents are considered to have been received**, I find that the tenants are deemed to have received the notice 3 days later on July 14, 2014. As the tenants paid July's rent in full on July 30, 2014, I find that the tenants did not pay the outstanding rent within 5 days of receiving the notice. Neither did the tenants apply to dispute the notice. The tenants are 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**.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenants. This order must be served on the tenants. Should the tenants 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.

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: October 01, 2014

Residential Tenancy Branch

