



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Maple Manor Apartments
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR

Introduction

This hearing was initiated by way of a Direct Request Proceeding but was reconvened as a participatory hearing, as I had insufficient evidence to conclude that the Ten Day Notice to End Tenancy was properly served on the Tenant.

The reconvened hearing was held to address the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent and a monetary Order for unpaid rent.

The Agent for the Landlord stated that on October 06, 2014 the Application for Dispute Resolution and the Notice of Hearing were sent to the Tenant, via registered mail, at the rental unit. The Landlord submitted a Canada Post receipt that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Act*; however the Tenant did not appear at the hearing.

The Agent for the Landlord stated that the Tenant was hospitalized approximately two weeks ago for a broken hip; however he should be able to access a telephone if he wished to participate in this hearing.

The Agent for the Landlord stated that additional rent has accrued since the Application for Dispute Resolution; however he declined the opportunity to amend the Application to include all the rent currently due.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a monetary Order for unpaid rent?

Background and Evidence

The Agent for the Landlord stated that this tenancy began on September 01, 2012 and that the Tenant is currently required to pay \$715.00 in rent by the first day of each month. He stated that the Landlord is seeking compensation of \$1,430.00, as the Tenant did not pay rent for July or August of 2014.

The Agent for the Landlord stated that he posted a Ten Day Notice to End Tenancy for Unpaid rent on the Tenant's door on August 05, 2014, which had a declared effective date of August 15, 2014. The Notice declared that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental unit by the date set out in the Notice unless the Tenant pays the outstanding rent or files an Application for Dispute Resolution within five days of the date they are deemed to have received the Notice.

Analysis

Section 46(1) of the *Residential Tenancy Act (Act)* requires tenants to pay rent when it is due. On the basis of the undisputed evidence, I find that the Tenant currently owes rent of \$1,430.00 for July and August of 2014 and I therefore find that he must pay this amount to the Landlord.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within ten days if appropriate notice is given to the tenant. On the basis of the undisputed evidence, I find that a Ten Day Notice to End Tenancy was posted at the rental unit on August 05, 2014.

Section 90 of the *Act* stipulates that a document that is posted on a door is deemed to be received on the third day after it is posted. I therefore find that the Tenant received the Notice to End Tenancy on August 08, 2014.

A Ten Day Notice to End Tenancy is effective ten days after the date that the Tenant receives the Notice. As the Tenant is deemed to have received this Notice on August 08, 2014, I find that the earliest effective date of the Notice was August 18, 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 August 18, 2014.

Section 46(4) of the *Act* stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice to End Tenancy. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the

tenancy has ended. On this basis I will grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon 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.

The Landlord has established a monetary claim, in the amount of \$1,430.00 and I grant the Landlord a monetary Order for this amount. 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.

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: November 18, 2014

Residential Tenancy Branch

