



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MML PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for an order of possession for unpaid rent pursuant to section 55.

The tenant did not attend this hearing, although I waited until 0945 in order to enable the tenant to connect with this teleconference hearing scheduled for 0930. The landlord's agent (the agent) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The agent testified that he served the tenant with the dispute resolution package on 4 December 2014 by registered mail. The agent provided me with a Canada Post customer receipt that showed the same. On the basis of this evidence, I am satisfied that the tenant was deemed served with the dispute resolution package pursuant to sections 89 and 90 of the Act.

Issue(s) to be Decided

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

Relevant Background and Evidence

This tenancy began 16 July 2014. The tenancy agreement provides that rent of \$1,335.00 and parking of \$20.00 is due on the first of the month.

The agent testified that on 15 November 2014 he served the tenant with the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) by posting it to the tenant's door. The agent provided me with a photograph of this posting. On the basis of this evidence, I am satisfied that the tenant was deemed served with the 10 Day Notice on 18 November 2014, the third day after its posting pursuant to sections 88 and 90 of the Act.

The agent testified that the 10 Day Notice was given for \$1,355.00 in rental arrears. This amount was due 1 November 2014. The 10 Day Notice set out an effective date of 30 November 2014.

The agent testified that the tenant has made payments to the landlord after she was served with the 10 Day Notice. The agent testified that the tenant was provided with receipts that stated that the payment was received “for use and occupancy only” and that receipt of the payments did not constitute a reinstatement of the tenancy.

The agent testified that the tenant has total rental and parking arrears of \$1,675.00.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

The tenant failed to pay the outstanding rent within five days of receiving the 10 Day Notice. The tenant has not made application pursuant to subsection 46(4) of the Act within five days of receiving the 10 Day Notice. In accordance with subsection 46(5) of the Act, the tenant’s failure to take either of these actions within five days led to the end of her tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by 30 November 2014. As that has not occurred, I find that the landlord is entitled to a two-day order of possession.

Conclusion

The landlord is provided with a formal copy of an order of possession. Should the tenant(s) fail to comply with this order, this order may be filed and enforced as an order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: January 05, 2015

Residential Tenancy Branch

