



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This is a Review Hearing granted to the tenant for the landlord's application for dispute resolution seeking an order of possession and a monetary order for unpaid rent.

Both parties attended the hearing by conference call and gave testimony. The tenant did not submit any documentary evidence and has confirmed receiving the landlord's documentary evidence. As both parties have attended and have received the submitted documentary evidence, I am satisfied that both parties have been properly served.

It was clarified with both parties that the only remaining issue was that the landlord was seeking an order of possession as a result of the 10 day notice to end tenancy issued for unpaid rent as both parties have confirmed that the rent arrears have been paid. Both parties are in agreement that the dispute is over when the rent was paid.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

This tenancy began on May 16, 2014 on a fixed term tenancy ending on November 15, 2014 as shown by the submitted copy of the signed tenancy agreement dated May 15, 2014. The monthly rent is \$700.00 payable on the 1st of each month and a security deposit of \$325.00 was paid on May 10, 2014.

The landlord states that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated November 3, 2014 which displays an effective end of tenancy date of November 13, 2014. The notice states that the tenant failed to pay rent of \$700.00 that was due on November 1, 2014. The tenant disputes that he was never served with the

10 day notice dated November 3, 2014. The landlord states that the 10 day notice dated November 3, 2014 was served in person by handing delivery to the tenant on November 3, 2014 with a witness, W.L. The landlord has submitted a signed proof of service document confirming service of the document on the tenant on November 3, 2014.

The tenant states that he paid rent in cash to the landlord of \$690.00 on November 2, 2014 and the remaining \$10.00 on either November 4th or 5th. The landlord disputes this stating rent was paid by the tenant in cash on November 6, 2014 of \$690.00 and the remaining \$10.00 on November 11, 2014. This is disputed by the tenant. The landlord has submitted a copy of typed receipts dated November 6, 2014 for \$690.00 and November 11, 2014 for \$10.00. The witness, J.L. stated that he was previously a property manager and stated that he helped the landlord draft both receipts and was a witness to them being served, but could not confirm the dates. Both parties have confirmed that the tenant received a receipt for \$690.00 received on November 9, 2014 and another on November 11, 2014 for the remaining \$10.00. The landlord also relies on copies of text messages dated November 6, 2014 which "confirmed to receive your late payment of \$690 today. Please drop off the balance of \$10 of your rent asap...." The landlord also refers to a text message dated November 8, 2014 which states, "I have not received the \$10 yet. Please drop into my mail slot." The tenant stated that he paid the rent in cash which he obtained from the bank, but has not provided any evidence of when he obtained the cash from the bank.

Analysis

I find based upon the evidence submitted by both parties that the tenant has been properly served with the 10 day notice to end tenancy dated November 3, 2014 in person on November 3, 2014. The tenant confirmed that rent was not paid on the 1st of the month when due and the landlord has provided a signed proof of service statement showing that the tenant was served with the 10 day notice dated November 3, 2014.

I prefer the evidence of the landlord over that of the tenant and on a balance of probabilities, I am satisfied that the tenant failed to pay rent when it was due and that it was paid late to the landlord past the allowed timeframe after being served with a notice to end tenancy. The tenant has disputed the landlord's claim and that rent was paid on November 2 and again on the 4th or 5th. The landlord has provided copies of typed receipts issued on November 6th and 11th. Both parties confirmed that the landlord gave receipts with a witness to the tenant on November 9 and 11th. The landlord also relies on copies of text messages dated November 6th confirming rent of \$690.00 paid and that an outstanding \$10.00 was owed. The landlord also relies on another text to the tenant confirming that the outstanding \$10.00 has not been paid on November 8, 2014.

I am satisfied that the landlord has established grounds that the tenant was served with the 10 day notice dated November 3, 2014 in person on the same date with a witness and that the tenant failed to pay the rent within the allowed timeframe. As such, the landlord is entitled to an order of possession. The tenant must be served with the order of possession. 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.

Conclusion

The landlord is granted an order of possession.

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: January 07, 2015

Residential Tenancy Branch

