



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MND

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and compensation for damage to the unit, site or property. The landlord attended and gave affirmed testimony, while the tenant did not appear.

The landlord testified that the application for dispute resolution, the notice of hearing and all related documentary evidence was served by way of Xpresspost. Evidence submitted includes the Canada Post tracking number for the Xpresspost, and the Canada Post website informs that the items were "accepted at the Post Office" on March 04, 2015. Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the hearing package was served in accordance with sections 89 and 90 of the Act which speak, respectively, to **Special rules for certain documents**, and **When documents are considered to have been received**.

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 for this tenancy which began more than 1 year ago. Monthly rent of \$800.00 is due and payable in advance on the first day of each month. Neither a security deposit nor a pet damage deposit was collected.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated February 12, 2015. 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 February 23, 2015. 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, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated February 12, 2015. 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 for unpaid rent in the total amount of **\$5,600.00**. This is calculated on the basis of \$800.00 per month for each of the 7 months during the period from September 2014 to March 2015 (\$800.00 x 7).

As no documentary evidence has been submitted in support of the landlord's application for a monetary order reflecting compensation for damage to the unit, site or property, that aspect of the landlord's application is hereby dismissed with leave to reapply. The landlord has not applied to recover the filing fee for this current application.

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 **\$5,600.00**. 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: April 01, 2015

Residential Tenancy Branch

