



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. The landlord, assisted by a family member, attended and gave affirmed testimony. The tenant did not appear.

The landlord testified that the application for dispute resolution and the notice of hearing (the "hearing package") was served by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "unclaimed by recipient." However, based on the documentary evidence and the affirmed / undisputed testimony of the landlord, pursuant to 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**, I find that the tenant has been duly served.

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 on March 01, 2015. Monthly rent of \$1,250.00 is due and payable in advance on the first day of each month, and a security deposit of \$625.00 was collected.

Arising from rent which was unpaid when due on July 01, 2015, the landlord issued a 10 day notice to end tenancy for unpaid rent dated July 09, 2015. The notice was personally served 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 July 19, 2015. Subsequently, the tenant made payment of July's rent in full on July 18, 2015.

Thereafter, rent was also paid in full for August. Despite the foregoing, the landlord continues to seek an order of possession.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that on July 09, 2015 the tenant was personally served with a 10 day notice to end tenancy for unpaid rent dated July 09, 2015. The tenant did not pay the full amount of rent outstanding 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 to compensation, as rent has now been paid in full for July and August 2015, I find that the landlord has established entitlement limited to recovery of the **\$50.00** filing fee. I order that the landlord may withhold this amount from the tenant's security deposit. Finally, at such time as tenancy ends, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**.

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.

I order that the landlord may withhold **\$50.00** from the tenant's security deposit in order to recover the filing fee for this application.

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: August 17, 2015

Residential Tenancy Branch

