



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on December 15, 2015. The Landlord also said she text the Tenant with the hearing information and the Tenant acknowledged the Landlord text about the hearing information. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

It should be noted that the Landlord's original application was under the Direct Request process but was adjourned to a participatory hearing as the Landlord's proof of service of the 10 Day Notice to End Tenancy for Unpaid Rent did not comply with the Act. The Landlord had neglected to sign the proof of service.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

Background and Evidence

This tenancy started on June 1, 2014 as a month to month tenancy. Rent is \$550.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$275.00 on May 27, 2014.

The Landlord said that the Tenant did not pay \$550.00 of rent for November, 2015 when it was due and as a result, on November 5, 2015 she personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated November 5, 2015 to the Tenant. The Tenant has signed on the Proof of Service that she received the 10 Day Notice to End Tenancy dated November 5, 2015. The Landlord said the Tenant paid \$250.00 on January 5, 2016 but the Tenant has unpaid rent for December 2015 of \$550.00 and for January, 2016 in the amount of \$550.00. The Landlord said the Tenant has a total of unpaid rent in the amount of \$1,300.00.

The Landlord further indicated that the Tenant is living at the rental unit and the Landlord wants to end the tenancy as soon as possible. The Landlord requested an Order of Possession.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy on the day the Notice was personally served, or on November 5, 2015. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than November 10, 2015.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55 of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for November, 2015, in the amount of \$200.00. I further find that the Landlord is entitled to recover the unpaid rent for December, 2015 and January, 2016 in the total amount of \$1,100.00. The Landlord is awarded a total of \$1,300.00 for unpaid rent.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$1,300.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 27, 2016

Residential Tenancy Branch

