



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55; and
2. A Monetary Order for unpaid rent - Section 67.

Preliminary Matter

The Tenants did not appear at the hearing. The Landlords who initially attended the hearing could not provide evidence of service of the application and commenced yelling at and repeatedly interrupting the Arbitrator. Somewhere in between the yelling the Arbitrator was able to discern that the Landlords had an Agent who served the application and that their Agent was late in attending the hearing. While waiting approximately another 10 minutes for the Agent to attend the hearing the phone line continued to be inundated with yelling and screaming by the Landlords in a language other than English. This noise ended when the Agent appeared and stated that the application for dispute resolution and notice of hearing was given to the Tenants by securing the documents on the door of the unit.

Section 89 of the Act provides that an application for dispute resolution that includes a monetary claim by a landlord must be given to a tenant in one of the following ways:

- by leaving a copy with the person;

- by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant; or
- as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

As the Landlord served the application by leaving it at the door I find that the Landlord has not served the documents as required under the Act for the purposes of the monetary claim. As a result, I may only consider the claim for the order of possession and I dismiss the claim for unpaid rent with leave to reapply. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The tenancy started on July 1, 2015. Rent of \$1,600.00 is payable on the first day of each month. The Tenant owed arrears and failed to pay the rent for March 2016 and on March 2, 2016 the Landlord served the Tenants with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door. The Tenant did not dispute the Notice, has not paid the amount indicated on the Notice and has not moved out of the unit.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent (the "Notice") the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two

things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the Notice by making an application for dispute resolution and the time for making that application has expired. Based on the undisputed evidence of the Landlord I find that the Tenant was given a valid notice, did not pay the rent, did not dispute the notice and has not moved out of the unit. As a result I find that the Landlord is entitled to an order of possession.

Conclusion

I grant an Order of Possession to the Landlord. The Tenants must be served with this **Order of Possession**. Should the Tenants 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.

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 27, 2016

Residential Tenancy Branch