



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 9:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord testified that on May 11, 2016, she served the tenant with a copy of the Application for Dispute Resolution and Notice of Hearing by attaching it to the door of the rental unit.

Based on the above evidence, I am satisfied that the tenant was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

Issues

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Background and Evidence

The tenancy began on September 1, 2013 with a monthly rent of \$710.00 payable on the 1st day of each month. As of September 1, 2015 the rent was increased to \$743.00 per month. The tenant paid a security deposit of \$355.00 at the start of the tenancy which the landlord still retains.

The landlord testified that on March 31, 2016 she served the tenant with the 10 day Notice to End Tenancy for unpaid rent or utilities by posting a copy to the door of the rental premises.

The landlord's monetary claim is for \$8726.00 in unpaid rent.

Analysis

I am satisfied that the tenant was deemed served with the 10 day Notice to End Tenancy on April 3, 2016, three days after its posting, pursuant to sections 88 & 90 of the Act.

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent 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, as in the present case, 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, April 14, 2016.

Therefore, I find that the landlord is entitled to an Order of Possession.

The landlord provided evidence that the tenant was served the Application for Dispute Resolution and Notice of Dispute Resolution Hearing by posting a copy to the door of the rental unit. Although this is an allowable method for service of an application for an order of possession pursuant to section 89(2) of the Act, it is not for an application in general.

Section 89 of the Act establishes the following special rules for methods of service for certain documents, which include an Application for Dispute Resolution:

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) 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;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

The landlord has not served the tenant with the Application for Dispute Resolution in a manner required by section 89(1) of the *Act*. The landlord's monetary claim is dismissed with leave to reapply.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme 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: June 08, 2016

Residential Tenancy Branch