



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR

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 11:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 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 July 5, 2016, he served the tenant with a copy of the Application for Dispute Resolution and Notice of Hearing by posting a copy 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 November 1, 2013 with a monthly rent of \$850.00 payable on the 1st day of each month. The tenant paid a security deposit of \$425.00 at the start of the tenancy which the landlord continues to hold.

The landlord testified that on June 5, 2016 he 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. A witnessed proof of service of this Notice was provided with the application.

Analysis

I am satisfied that the tenant was deemed served with the 10 day Notice to End Tenancy on June 8, 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, June 18, 2016.

Therefore, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

The landlord's application for a monetary order is dismissed with leave to reapply as the application for dispute resolution was not served on the tenant by a method permitted under section 89 of the Act. The landlord served the application by posting it to the door of the rental premises. Section 89 of the Act permits posting as a method of service for the purposes of an application for an order of possession but not for a monetary order.

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: August 15, 2016

Residential Tenancy Branch

