



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing, adjourned from a Direct Request process in which a decision is made based solely on the written evidence submitted by the landlord, dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for an Order of Possession for unpaid rent pursuant to section 55.

The tenant did not attend this hearing, which lasted approximately 15 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that he served the initial 10 Day Notice to End Tenancy for Unpaid Rent and Utilities (the "10 Day Notice") dated December 4, 2016 by posting it on the rental unit door on that date. In accordance with sections 88 and 90 of the *Act*, I find the tenant was deemed served with the 10 Day Notice on December 7, 2016, three days after posting.

The landlord testified that he served the Notice of Direct Request Proceeding on the tenant by posting it on the rental unit door on December 22, 2016. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the Notice of Direct Request on December 25, 2016, three days after posting.

The landlord testified that he served the Interim Decision of the Residential Tenancy Branch and Notice of Participatory Hearing on the tenant on January 11, 2017 by registered mail. The landlord provided a Canada Post tracking number as evidence. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with notice of the participatory hearing on January 16, 2017, five days after mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This month-to-month tenancy began sometime in 2016. The current rent is \$1,000.00 payable on the first of the month. A security deposit of \$500.00 was paid by the tenant at the start of the tenancy and is

still held by the landlord. The tenant continues to reside in the rental unit at the time of the hearing.

The landlord testified that the tenant failed to pay the rental amount owing for November 1, 2016 and December 1, 2016. The landlord testified that the tenancy was in arrears by \$2,000.00 on December 4, 2016 when the 10 Day Notice was issued. The landlord testified that the tenant failed to pay the full rental amount due after the 10 Day Notice was issued.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I find that the tenant was obligated to pay the monthly rent in the amount of \$1,000.00. I accept the landlord's evidence that the tenant failed to pay the full rent due within the five days of service granted under section 46(4) of the *Act* and did not dispute the 10 Day Notice within that five day period. Accordingly, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, December 17, 2016. Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises 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: January 25, 2017

Residential Tenancy Branch