



Dispute Resolution Services

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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 pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenant did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord entered written evidence from his agent and sworn testimony that his agent posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door January 5, 2017. I am satisfied that the landlord's agent served this Notice to the tenants in accordance with section 88 of the *Act*. In accordance with section 90 of the *Act*, the 10 Day Notice was deemed served to the tenants on January 8, 2017, the third day after its posting.

The landlords' agent gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package were posted on the tenants' door on January 28, 2017. The agent testified that there is no registered mail delivery in their area, only post office boxes. The agent testified that he attended numerous times to the property but the tenant wasn't home. The agent testified that he understood the tenant to be out of the country. The agent testified that posting the notice of hearing package was the only means of serving the tenant. In accordance with sections 89(2) and 90 of the *Act*, I am satisfied that tenant is deemed served with the landlord's dispute resolution hearing packages on January 31, 2017 and that I can consider the request for an order of possession. However, the landlord has not met the service requirement under Section 89(1) of the *Act* for the monetary portion of their application and I hereby dismiss that portion with leave to reapply.

Issues(s) to be Decided

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

Background and Evidence

The tenancy began on or about October 1, 2016 for a four month fixed term scheduled to end on January 31, 2017. Rent in the amount of \$650.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month(s) of December and January and January 5, 2017 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of February. The agent advised that as of today's hearing the amount of unpaid rent is 1950.00. In addition, the agent testified that as per the tenancy agreement, the tenant was to vacate as of January 31, 2017 pursuant to the vacancy clause in the agreement.

Analysis

The tenants failed to pay their rent in full within five days of being deemed to have received the 10 Day Notices. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice. In addition, the tenancy agreement clearly shows that the tenancy was to end on January 31, 2017 and that the tenants were to vacate as per the vacancy clause.

The landlord is granted an Order of Possession pursuant to Section 55 of the *Act*, which must be served on the tenant(s). If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

The landlord is granted an order of possession and leave to reapply for a monetary order for unpaid rent.

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: February 22, 2017

Residential Tenancy Branch