



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KENSON REALTY
and [tenant name suppressed to protect privacy]

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;

This application was originally heard by way of a Direct Request Proceeding and on May 4, 2017 an interim decision was issued adjourning the application to be reconvened at a participatory hearing.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, present evidence and make submissions.

The landlord advised the outstanding rent had been paid in full since the filing of the application so the landlord is withdrawing the application for a monetary order.

Issues

Is the landlord entitled to an order of possession for pursuant to a 10 Day Notice to End Tenancy for unpaid rent (the 10 Day Notice)?

Background and Evidence

The tenancy began in August 2013 and the lease was recently renewed on February 1, 2017 for a 3 month fixed term ending April 30, 2017. The monthly rent is \$2450.00 payable on the 1st day of each month. The tenant paid a security deposit of \$1200.00 and a pet deposit of \$1200.00 at the start of the tenancy which the landlord continues to hold.

The landlord testified that on March 7, 2017 he served the tenant with the 10 Day Notice by posting a copy to the door of the rental premises. A witnessed proof of service of the 10 Day Notice was provided with the application.

The landlord testified that the outstanding amount indicated in the 10 Day Notice was \$1450.00 which was due on March 1, 2017. The landlord testified that this outstanding balance was not paid until the end of March 2017.

The tenant's representative confirmed that she was the Executrix of the Estate for her sister who passed away on March 21, 2017. The tenant's representative agreed that the rent was not paid until the end of March and did not dispute the landlord's application for an order of possession.

Analysis

I am satisfied that the tenant was deemed served with the 10 Day Notice on March 10, 2017, three days after its posting, pursuant to sections 88 & 90 of the Act.

Section 46 of the Act requires that upon receipt of a 10 Day Notice the tenant must, within five days, either pay the full amount of the arrears indicated on the 10 Day 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 10 Day Notice, March 20, 2017.

I find that the 10 Day Notice issued by the landlord complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

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 16, 2017

Residential Tenancy Branch