



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

A hearing was convened to deal with the landlord's application under the *Residential Tenancy Act* (the "Act") based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 11, 2017 (the "10 Day Notice"). The landlord applied only for an order of possession.

The tenant did not attend the hearing. The landlord attended, with her husband, and was given a full opportunity to be heard, to present affirmed testimony and documentary evidence, and to make submissions.

As the tenant did not attend, service of the landlord's application and the notice of hearing were considered. The landlord provided affirmed testimony that she served the tenant by mailing these materials to the rental unit address by registered mail on May 13, 2017. The landlord also provided a Canada Post registered mail receipt in support. The landlord advised that she had tracked the registered mail and that the tracking information shows the tenant signing for the registered mail package on May 23, 2017. Based on the landlord's evidence, I find that the tenant was served with the landlord's application and notice of hearing on May 23, 2017.

Issues to be Decided

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

Background and Evidence

According to the landlord's affirmed and undisputed evidence and the written tenancy agreement in evidence, this tenancy began on February 5, 2017. Rent of \$550.00 is currently payable on the 5th of each month.

The landlord testified that the 10 Day Notice was served on the tenant on April 11, 2017 by posting it on the rental unit door after the tenant refused to open the door to the landlord.

The landlord further testified that as of the date of issuance of the 10 Day Notice, the tenant had not paid rent for April. The landlord also advised that rent is now outstanding for May and June.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. Based on the landlord's undisputed, I find that the tenant was served with the 10 Day Notice on April 14, 2017, three days after it was posted.

I accept the landlord's undisputed testimony that the tenant has not paid the amount outstanding set out on the 10 Day Notice. The tenant has not applied to dispute the 10 Day Notice.

Section 46(5) of the Act provides that if a tenant has not paid outstanding rent in full or applied to dispute a 10 Day Notice within five days of receipt of the 10 Day Notice, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice, and must vacate the rental unit by that date.

Here, the tenant did not make an application pursuant to section 46(4) within five days of receipt of the 10 Day Notice. Nor did she pay the arrears. In accordance with section 46(5) of the Act, the failure of the tenant to take either of the above actions within five days led to the end of this tenancy on April 24, 2017, the corrected effective date on the 10 Day Notice. The tenant and anyone on the premises were required to vacate the premises by that date.

As this has not occurred, I find that the landlord is entitled to a two (2) day order of possession, pursuant to section 55 of the Act. I find that the landlord's 10 Day Notice complies with section 52 of the Act.

Conclusion

I grant an order of possession to the landlord effective **two (2) days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this order, it may be filed and enforced as an order of the Supreme Court of British Columbia.

As the landlord's application is successful, the landlord is entitled to recover her application filing fee. I authorize the landlord to retain \$100.00 of the tenant's security deposit in full satisfaction of the application filing fee.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act. Pursuant to s. 77, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: June 22, 2017

Residential Tenancy Branch