



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Widstein Property Management Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution by Direct Request. The matter was subsequently referred to a participatory hearing, held on August 24, 2017 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "*Act*");

- an order of possession for unpaid rent or utilities; and,
- a monetary order for unpaid rent or utilities.

The Landlord, S.W., provided affirmed testimony at the hearing. The Tenant did not attend the hearing.

The landlord testified the Notice of Hearing along with supporting documentary evidence was sent to the Tenant by registered mail on August 1, 2017. I find the Tenant received this package on August 6, 2017, the fifth day after its registered mailing, pursuant to Section 90 of the *Act*.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent or utilities?
2. Is the Landlord entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

The Landlord provided a copy of the tenancy agreement between the parties. It confirms the tenancy began on February 5, 2016. At that time, rent in the amount of \$1,100.00 per month was due on the first day of each month. The Landlord holds a security deposit in the amount of \$550.00 and a pet deposit in the amount of \$550.00. The Landlord also provided a copy of the Notice of Rent Increase document, which shows that the current rent is set at \$1,140.00.

The Landlord testified that the Tenant has not paid rent for July or August of 2017. The Landlord also provided a copy of the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice). The Landlord testified that the 10 Day Notice was served to the Tenant by giving it to an adult male who apparently resides at the rental unit although the individual answered the front door but would not provide his name. The Landlord further testified in the hearing that he has seen this individual at the rental unit many times over the past several months. The Landlord stated that the person he left the 10 Day Notice with has answered the door at least 3 times over the past several months when he has dropped other documents off at the rental unit.

Service of the 10 Day Notice was witnessed by an individual named R.A. The 10 Day Notice indicated that the amount of outstanding debt accrued at that time was \$1,140.00. The Landlord testified that this amount represented rent for July of 2017. The Landlord also testified that no rent has been paid since giving the 10 Day Notice to the Tenant. Accordingly, the Landlord stated that rent is still outstanding and has not been paid as required on July 1, and August 1 of 2017, and the Tenant now owes \$2,280.00 in unpaid rent, at the time of this hearing.

The Tenant did not attend the hearing to dispute the evidence provided by the Landlord.

Analysis

Based on the unchallenged affirmed testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Section 26 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent. When a tenant does not pay rent when due, section 46 of the *Act* permits a landlord to end the tenancy by issuing a notice to end tenancy. A tenant who receives a notice to end tenancy under this section has five days after receipt to either pay rent in full or dispute the notice by filing an application for dispute resolution. When a tenant does not pay rent in full or dispute the notice, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice.

In this case, based on the affirmed testimony and the documentary evidence before me, I find that the Tenant has not paid rent when due since July 1, 2017.

On July 5, 2017, the Landlord issued the 10 Day Notice by delivering it to an adult who apparently resides at the rental unit with the Tenant. Service was witnessed by R.A. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received the same day. As such, I find the Tenant is deemed to have received the 10 Day Notice on July 5, 2017.

The Tenant had 5 days to pay rent in full or file an application for dispute resolution. As the Tenant did neither, I find the Tenant is conclusively presumed to have accepted the end of the tenancy. The Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

With respect to the Landlord's request for a Monetary Order for unpaid rent, I find there is sufficient evidence before me to demonstrate that the Tenant owes and has failed to pay the following:

Claim	Amount
Unpaid rent: July & August of 2017	\$1,140.00 x 2
TOTAL:	\$2,280.00

Conclusion

The landlord is granted an order of possession effective **two days after service** on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

The landlord is granted a monetary order pursuant to Section 67 in the amount of **\$2,280.00** comprised of rent owed. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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 24, 2017

Residential Tenancy Branch