



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

Pursuant to section 58 of the *Residential Tenancy Act*. (the *Act*), I was designated to hear this matter. This hearing dealt with the landlord's application for:

- an Order of Possession pursuant to section 55 of the *Act* for unpaid rent or utilities;
- a Monetary Order pursuant to section 67 of the *Act* for unpaid rent; and
- recovery of the filing fee from the tenants, pursuant to section 72 of the *Act*.

While the landlord, represented by agent M.S. (the "landlord"), attended the hearing by way of conference call, the tenants did not. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord gave undisputed sworn testimony that a 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") was given to the tenants personally on June 2, 2017. A copy of a signed and dated, proof of service document was provided to the hearing as part of the landlord's evidentiary package. I find that in accordance with sections 88 and 90 of the *Act* the 10 Day Notice was deemed to have been served on the tenants on June 2, 2017.

The landlord testified that the tenants were individually sent copies of the Landlord's Application for Dispute Resolution hearing package ("dispute resolution hearing package") and evidence by way of Registered Mail on June 29, 2017. The Canada Post tracking numbers and receipts were provided for the hearing as part of the landlord's evidentiary package. In accordance with sections 89 and 90 of the *Act*, I find the tenants deemed to be served with the landlord's dispute resolution hearing package and evidence on July 2, 2017, five days after their mailing.

Following opening remarks, the landlord asked if he could amend his application for dispute resolution. He stated that he was no longer pursuing the Monetary Order or the return of the filing fee, and simply wished to obtain an Order of Possession. Pursuant to section 63 of the *Act*, I amend the landlord's application for dispute resolution to reflect this desire.

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 that the tenancy in question began in May 2017 when the landlord purchased the building. The landlord explained that the tenants had lived in the rental unit under a tenancy with the former owner since February 2016. Rent was \$900.00 per month and a security deposit of \$450.00 continues to be held by the landlord.

The landlord stated that he was seeking an Order of Possession based on unpaid rent for June, July and August 2017.

Analysis

The tenants failed to pay the unpaid rent within five days of receiving the 10 Day Notice to End Tenancy. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of receiving 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 effective date of the notice. In this case, this required the tenants to vacate the premises by June 12, 2017, the corrected effective day of the 10 Day Notice. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenants.

Conclusion

I am granting the landlord an Order of Possession to be effective two days after notice is served to the tenants. If the tenants do not vacate the rental unit within the two days required, the landlord may enforce this Order in 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: August 30, 2017

Residential Tenancy Branch