



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 22225 GP INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

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, which was originally scheduled for August 30, 2017 at 9:30 A.M. The hearing was subsequently rescheduled and was held on August 30, 2017, at 1:30 PM. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for unpaid rent or utilities

The Landlord's agent, D.H., 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 given to the Tenant in person on August 2, 2017. Service was witnessed by an individual named M.S. The landlord also testified that he gave the Tenant written notice that the time of the hearing had been changed from 9:30 AM to 1:30 PM on August 30, 2017. Subsequently, the Landlord's agent stated that he saw the Tenant near the rental unit and he verbally acknowledged having received the notice pertaining to the new hearing time.

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?

Background and Evidence

The Landlord's agent testified that the current property owner never received a copy of the original tenancy agreement when the rental unit was purchased. He testified that there was a written tenancy agreement with the Tenant but it could not be located. The Landlord's agent stated that since the physical copy of the tenancy agreement was missing, an estoppel certificate was created to detail the particulars of the tenancy. This estoppel certificate was signed by the Landlord and the Tenant on February 10, 2017. It confirms the tenancy began on March 15, 2015. Rent in the amount of \$750.00 per month is due on the first day of each month. The Landlord holds a security deposit in the amount of \$375.00.

The Landlord's agent testified that the Tenant has not paid rent in full since April of 2017, and only paid \$375.00 in May of 2017. The Landlord's agent also testified that no rent has been paid for June, 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), which was posted to the Tenant's door on July 17, 2017. This service was witnessed by an individual named M.S.

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, I find that the Tenant has not paid rent in full since April of 2017, only paid \$375.00 for May of 2017, and has not paid any further rent since that time, despite remaining in the rental unit.

I am satisfied that on July 17, 2017, the Landlord issued the 10 Day Notice and attached a copy to the Tenant's front door. I accept that service was witnessed by M.S. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 3 days later. I find the Tenant is deemed to have received the 10 Day Notice on July 20, 2017.

The Tenant had 5 days to pay rent in full or file an application for dispute resolution. There is no evidence before me that the Tenant did either. 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.

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 leave to apply for a monetary order for unpaid rent, if they so choose.

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