



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

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.

While the landlord, represented by agent A.T. (the "landlord"), attended the hearing by way of conference call, the tenant 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 posted on the tenant's door on May 5, 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 tenant on May 8, 2017, three days after their posting.

The landlord testified that the tenant was sent a copy of the Landlord's Application for Dispute Resolution hearing package ("dispute resolution hearing package") and evidence by way of Registered Mail on June 28, 2017. The Canada Post tracking number and receipt 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 tenant deemed to be served with the landlord's dispute resolution hearing package and evidence on July 2, 2017, five days after their mailing.

A second evidentiary package was sent to the tenant by way of Canada Post Registered Mail on August 17, 2017. The Canada Post tracking number and receipt

were provided to the hearing. I find the tenant deemed to be served with these documents on August 21, 2017, five days after their posting.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

Undisputed testimony provided to the hearing by the landlord explained that this tenancy began on February 1, 2016. Rent was \$326.00 per month and a security deposit of \$163.00 continues to be held by the landlord.

The landlord explained that the tenant has consistently paid rent after the date it was due, and in an amount that is \$8.11 short. She said that the tenant was served a 10 Day Notice on May 5, 2017 because rent was unpaid. On May 16, 2017 the tenant paid \$317.89 in rent via social assistance. A second payment of \$8.11 was paid later on that same day. The tenant was issued a receipt for *use and occupancy only* by the landlord.

Evidence submitted at the hearing by the landlord shows that rent was late for June, July and August 2017. Following the receipt of each payment, the tenant was issued a receipt for *use and occupancy only*.

The landlord is seeking an Order of Possession based on a 10 Day Notice for unpaid rent for the month of May 2017.

Analysis

The tenant failed to pay the unpaid rent within five days of receiving the 10 Day Notice to End Tenancy on May 5, 2017. Evidence presented at the hearing demonstrates that rent has consistently been paid late. The tenant has not made an 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 tenant's failure to take either of these actions within five days led to the end of her tenancy on the corrected effective date of the notice. In this case, this required the tenant to vacate the premises by May 18, 2017. 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 tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

I am granting the landlord an Order of Possession to be effective two days after notice is served to the tenant. If the tenant does 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: September 1, 2017

Residential Tenancy Branch