



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

This hearing dealt with the Landlord's Application for Dispute Resolution, made on September 28, 2017 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act*:

- an order of possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated September 6, 2017 (the "10 Day Notice");
- a monetary order for unpaid rent or utilities; and
- an order granting recovery of the filing fee.

The Landlord was represented at the hearing by B.S., an agent, who provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlord, B.S. testified the Application package was served on the Tenant by registered mail on October 3, 2017. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Tenant is deemed to have received the Application package on October 8, 2017.

On behalf of the Landlord, B.S. was provided with 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.

Issue to be Decided

1. Is the Landlord entitled to an order of possession based on the 10 Day Notice?
2. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
3. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed the fixed-term tenancy began on August 1, 2017 and was set to expire on July 31, 2018. Rent in the amount of \$2,300.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$1,150.00, which the Landlord holds.

On behalf of the Landlord, B.S. confirmed the Tenant did not pay rent when due on September 1, 2017. In addition, despite having been provided with a written demand for payment on August 24, 2017, the Tenant owed \$43.86 in utilities. Accordingly, the Landlord issued the 10 Day Notice, which was served on the Tenant by posting a copy to the door of the Tenant's rental unit on September 6, 2017. At that time, rent and utilities totalling \$2,343.86 was outstanding.

Further, B.S. testified that rent was not paid when due on October 1, November 1, and December 1, 2017. Currently, rent and utilities totalling \$9,243.86 is outstanding.

The Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

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

Section 26 of the *Act* confirms that a tenant must pay rent when due under a tenancy agreement, whether or not the landlord complies with the *Act*, the regulations or the tenancy agreement, unless the tenant has a right under the *Act* to deduct all or a portion of the 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 for unpaid rent or utilities. A tenant has five days after receipt of a notice to end tenancy for unpaid rent or utilities to either pay rent in full or dispute the notice by filing an application for dispute resolution.

In this case, I find that the 10 Day Notice was served on the Tenant by posting a copy to the door of the Tenant's rental unit on September 6, 2017. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received three days later. I find the Tenant is deemed to have received the 10 Day Notice on September 9, 2017. Accordingly, the Tenant had until September 14, 2017, to pay rent and utilities in full, or to dispute the 10 Day Notice by filing an application for dispute resolution. Based on the evidence before me, the Tenant did neither. Rather, the undisputed evidence

indicates that the Tenant has made no further rent payments to date. Accordingly, pursuant to section 55 of the *Act*, I grant the Landlord an order of possession, which will be effective two (2) days after service on the Tenant.

In addition, I find the Landlord has demonstrated an entitlement to a monetary award in the amount of \$9,243.86 for unpaid rent and utilities. Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$9,343.86, which is comprised of \$9,243.86 in unpaid rent and utilities, plus \$100.00 in recovery of the filing fee paid to make the Application.

Conclusion

The Landlord is granted a monetary order in the amount of \$9,343.86. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of 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: December 13, 2017

Residential Tenancy Branch