



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AWM ALLIANCE REAL ESTATE GROUP LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent, pursuant to section 55.

The tenant did not attend this hearing, which lasted approximately 12 minutes. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he was the rental agent for the landlord company named in this application and that he had permission to speak on its behalf at this hearing. The landlord stated that the landlord company was the property manager for the owner of the unit.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package on March 6, 2018, by way of registered mail. The landlord provided a Canada Post receipt and tracking number with this application. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on March 11, 2018, five days after its registered mailing.

The landlord testified that he served the tenant with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated February 15, 2018 ("10 Day Notice"), on the same date, by way of posting to the rental unit door. The landlord provided a signed, witnessed proof of service indicating that a witness saw him personally post the notice to the tenant's door. The effective move-out date on the notice is February 26, 2018. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed

served with the landlord's 10 Day Notice on February 18, 2018, three days after its posting.

Issue to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Background and Evidence

While I have turned my mind to the landlord's documentary evidence and the testimony of the landlord, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlord's claims and my findings are set out below.

The landlord testified regarding the following facts. This tenancy began with the former landlord sometime before or in January 2017. The current landlord assumed this tenancy on a month-to-month basis as of January 15, 2018, when it became the property manager for the new owner of the unit. Monthly rent in the amount of \$775.00 is payable on the first day of each month. A security deposit was not provided to the landlord from the former landlord. A written tenancy agreement was not signed with the landlord. The tenant continues to reside in the rental unit.

The landlord seeks an order of possession based on the 10 Day Notice. The landlord issued the 10 Day Notice for unpaid rent of \$775.00 due on February 1, 2018. The landlord stated that rent of \$775.00 for each month is still unpaid for February 2018, as well as March, April and May 2018. The landlord provided a letter, dated January 24, 2018, from the former landlord, indicating that rent of \$775.00 was unpaid from January 2017 to 2018 by the tenant.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. The tenant failed to pay the full rent due on February 1, 2018, within five days of being deemed to have received the 10 Day Notice. The tenant has not made an application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the failure of the tenant to take either of the above actions within five days led to the end of this tenancy on February 28, 2018, the corrected effective date on the 10 Day Notice.

In this case, this required the tenant and anyone on the premises to vacate the premises by February 28, 2018. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 55 of the *Act*. I find that the landlord's 10 Day Notice complies with section 52 of the *Act*.

I find that the landlord did not waive its right to issue the 10 Day Notice to the tenant or to end this tenancy for unpaid rent. Despite the fact that rent was unpaid to the former landlord for one year, I find that when the new owner and landlord assumed the tenancy on January 15, 2018, it issued a 10 Day Notice immediately when it was able to do so, for the first rent payment due on February 1, 2018.

Conclusion

I grant an Order of Possession to the landlord effective two (2) days after service on the tenant. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed 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: May 16, 2018

Residential Tenancy Branch