



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. A participatory hearing was held on July 4, 2018. 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 (the Landlord) attended the hearing and provided testimony. The Tenant did not attend the hearing. The Landlord testified that he personally served the Notice of Hearing package to the Tenant on June 14, 2018. I find the Tenant received the package on that same day.

On the Landlord's application, he indicated that there is an upper and a lower unit for this rental address, and there are approximately 5 people living there, 2 upstairs and 3 downstairs. In the hearing, the Landlord stated that they bought the property in April of 2018, and none of the Tenants paid rent on time in May, June, or July. The Landlord stated that there are no written tenancy agreements in place for any of the Tenants, and each Tenant is required to pay individually to the Landlord each month, on the first of the month.

I note the Landlord has filed this application against all of the Tenants in this rental unit address (self-contained upper suite and lower suite). However, during the hearing I explained that during this hearing, I would only be able to hear issues as they relate to one of the tenancies. I also explained that since each Tenant is supposed to pay their rent individually and directly to the Landlord each month, and there are no written tenancy agreements, it appears that each Tenant has a separate tenancy agreement with the Landlord, and each of these agreements must be heard separately. The

Landlord explained which tenancy he wished to proceed against in this hearing, and I explained that the remaining tenancies and issues would be dismissed with leave to reapply, and that since each of the Tenants have separate oral tenancy agreements, they would need to be heard individually. I encouraged the Landlord to call our office for assistance from an information officer, should he require additional help or guidance.

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.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent or utilities?

Background and Evidence

The Landlord testified that current rent is \$500.00, and is due on the first day of each month. The Landlord stated that there is no written tenancy agreement and all arrangements are oral in nature.

The Landlord testified that the Tenant has not paid any rent since he took ownership in April of 2018. The Landlord provided a copy of the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice). The Landlord stated that he personally served the Tenant with the 10 Day Notice on May 10, 2018. Service of this document was witnessed by a third party. The 10 Day Notice specified that \$500.00 (May rent) was unpaid at that time.

The Landlord testified that the Tenant has not paid any money since May, and the Tenant now owes money for May, June, and July of 2018.

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(1) 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, under section 46(4) of the *Act*, 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, as per section 46(5) of the *Act*.

In this case, I find that the Tenant had a balance of unpaid rent in the amount of \$500.00 at the time the 10 Day Notice was issued. On May 10, 2018, the 10 Day Notice was personally served to the Tenant. I find the Tenant received the 10 Day Notice on this same day.

The Tenant had 5 days to pay rent in full or file an application for dispute resolution. I find no evidence that the Tenant did either. As such, I find the Tenant is conclusively presumed to have accepted the end of the tenancy, on the effective date of the notice. 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.

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: July 04, 2018

Residential Tenancy Branch