



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR DR

Introduction

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

- an order of possession pursuant to section 55 of the *Act* for unpaid rent;
- a monetary award for unpaid rent pursuant to section 67 of the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*.

Only the landlord's agent, B.M. attended the hearing. The landlord said a copy of the 10 Day Notice to End Tenancy ("10 Day Notice") was placed on the tenant's door on September 1, 2018. Pursuant to section 89 & 90 of the *Act*, the tenant is deemed served with this notice on September 4, 2018, three days after it was posted.

On September 21, 2018 the landlord sent a copy of his application for dispute and evidentiary package to the tenant by way of Canada Post Registered Mail. Pursuant to section 88, 89 & 90 of the *Act*, the tenant is found to have been deemed served with the landlord's application for dispute and evidentiary package on September 26, 2018, five days after their posting.

Following opening remarks the landlord explained he was no longer seeking a monetary award. Pursuant to section 64(3)(c) of the *Act*, I amend the landlord's application to remove the application for a monetary award.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

Only the landlord's agent B.M. attended the hearing. He explained this tenancy began on March 1, 2017 with subsidized rent of \$627.00 paid each month. A security deposit of \$419.00 paid at the outset of the tenancy continues to be held by the landlord.

The landlord said no rent had been paid for August, September and October 2018. On September 1, 2018 the landlord served the tenant with a 10 Day Notice for unpaid rent of August 2018. The landlord said he had previously applied for an Order of Possession by way of

Direct Request but this application had been rejected because of issues with tenancy agreement.

Analysis

The tenant failed to pay the unpaid rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has not made 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 effective date of the notice. In this case, this required the tenant to vacate the premises by September 14, 2018, the corrected effective day of the 10 Day Notice. 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.

As the landlord was successful in his application, he may pursuant to section 72, retain \$100.00 from the tenant's security deposit in full satisfaction for a return of the filing fee.

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.

The landlord is ordered to retain \$100.00 from the tenant's security deposit in full satisfaction for a return of the filing fee.

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: October 30, 2018

Residential Tenancy Branch