



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 in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows

- an Order of Possession for non-payment of rent pursuant to section 55 of the *Act*.

The tenant did not appear at the hearing, while the landlord’s agent K.E. (the “landlord”) participated in the conference call hearing. The landlord was given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses.

The landlord explained that a 10 Day Notice to End Tenancy (“10 Day Notice”) was posted on the tenant’s door on July 9, 2018. Pursuant to sections 89 & 90 of the *Act* the tenant is deemed to have been served with this notice on July 12, 2018, three days after its posting.

On August 30, 2018 the landlord sent the tenant a copy of the application for dispute resolution and evidentiary package by way of Canada Post Registered Mail. A copy of the tracking number was provided to the hearing. Pursuant to sections 88, 89 & 90 of the *Act* the tenant is deemed to have been served with these documents on September 4, 2018, five days after having their mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

Undisputed testimony was provided by the landlord’s agent, K.E. that this tenancy began in October 2011. Rent was \$375.00 per month, and a security deposit of \$187.50 paid at the outset of the tenancy continues to be held by the landlord.

The landlord served the tenant with a 10 Day Notice for Unpaid rent in July 2018 because the tenant had failed to pay rent for April, May, June and July 2018. The landlord said no rent has been received following the issuance of the 10 Day Notice. The tenant did not dispute this notice and did not pay the outstanding amount within five days of its posting.

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 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 has led to the end of the tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by July 22, 2018, the corrected effective date of the 10 Day Notice. As that has not occurred, I find that the landlord is entitled to an Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenants and will be effective two days after its service. If the tenant does not vacate the rental unit by 1:00 P.M. on July 22, 2018, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

I grant an Order of Possession to the landlord effective two days after its service on the tenant. Should the tenant fail to comply with this Order, this Order may be 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: October 15, 2018

Residential Tenancy Branch