



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

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

- an Order of Possession because the tenant is repeatedly late paying rent.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:42 P.M. to enable the tenant to call into this teleconference hearing scheduled for 1:30 P.M. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that the tenant was served the Notice of Hearing package via registered mail on November 23, 2018. The landlord provided a tracking number. I find that the tenant was deemed served with the Notice of Hearing package five days later, on November 28, 2018 in accordance with sections 89 and 90 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession pursuant to section 47(1)(b)?

Background and Evidence

The landlord gave undisputed sworn testimony that this fixed, one-year term tenancy began on May 1, 2018. The written tenancy agreement, signed by the landlord and

tenant on April 20, 2018, states the tenant is required to pay to the landlord \$2,600.00 on the 1st day of each month. The landlord confirms that he took a \$1,300.00 security deposit which he still holds.

The landlord gave undisputed sworn testimony that the tenant is repeatedly late in paying his rent. In 2018, rent for the month of July was paid in two installments on July 17 and July 18. The rent for August was paid in two installments on August 17 and August 24. September rent was paid on September 10 and October rent was paid on October 31. Lastly, November rent was paid on November 15, 2018. The landlord provided a copy of his bank statement as evidence.

The landlord testified that he served the tenant with the 1 Month Notice to End Tenancy (Notice) by attaching it to the tenant's door on October 30, 2018. The landlord provided a witnessed Proof of Service document to corroborate this.

Analysis

Section 90 of the *Act* provides that because the Notice was served by posting the Notice to the door of the rental unit, the tenant is deemed to have received the Notice three days after its posting. In accordance with sections 88 and 90 of the *Act*, I find that the tenant is deemed to have received the Notice on November 2, 2018, three days after its posting.

Sections 47(4) and (5) of the *Act* state:

(4) A tenant may dispute a Notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the Notice.

(5) If a tenant who has received a Notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice, and
- (b) must vacate the rental unit by that date.

Based on the landlord's testimony and the Notice before me, I find that the tenant was served with an effective Notice. Although the tenant had the opportunity to do so, he did not file an application to dispute the Notice within 10 days or attend this scheduled hearing. The tenant is therefore conclusively presumed to have accepted that the tenancy ends on December 31, 2018, the corrected effective date of the Notice and must move out of the unit.

As the corrected effective date of the Notice has already passed, I find that the landlord is entitled to a two day Order of Possession, pursuant to section 55 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective **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: January 04, 2019

Residential Tenancy Branch