



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MEICOR PROPERTY MANAGEMENT
INC. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR

Introduction

On May 14, 2019, the Landlord applied for a Direct Request proceeding seeking an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") pursuant to Section 46 of the *Residential Tenancy Act* (the "Act").

On May 22, 2019, this matter was set down for a Dispute Resolution proceeding to be heard on July 4, 2019 at 11:00 AM.

N.T. attended the hearing as an agent for the Landlord. The Tenants did not attend the hearing. All in attendance provided a solemn affirmation.

N.T. advised that the Landlord served the Tenants with a Notice of Hearing package and evidence by registered mail (the registered mail tracking numbers are on the first page of this decision) on May 23, 2019. Based on the undisputed testimony, in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenants were deemed to have received these packages five days after they were mailed.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) 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 accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

N.T. advised that the tenancy started on August 1, 2015 and that rent was established at \$943.00 per month, due on the first day of each month. A security deposit of \$425.00 was paid.

She indicated that the Notice was served to the Tenants by posting it to the Tenants' door on May 2, 2019, which indicated that \$943.00 was outstanding on May 1, 2019. She also submitted a signed proof of service indicating how and when this Notice was served. She stated that the Tenants had not paid May 2019 rent and are currently in arrears for June and July 2019 rent as well. The Notice indicated that the effective date of the Notice was May 12, 2019.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

I have reviewed the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I am satisfied that the Notice meets all of the requirements of Section 52.

Section 26 of the *Act* states that rent must be paid by the Tenants when due according to the tenancy agreement, whether or not the Landlord complies with the tenancy agreement or the *Act*, unless the Tenants have a right to deduct all or a portion of the rent.

Should the Tenants not pay the rent when it is due, Section 46 of the *Act* allows the Landlord to serve a 10 Day Notice to End Tenancy for Unpaid rent. Once this Notice is received, the Tenants would have five days to pay the rent in full or to dispute the Notice. If the Tenants do not do either, the Tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice, and the Tenants must vacate the rental unit.

The undisputed evidence before me is that the Tenants were deemed to have received the Notice three days after it was posted to their door on May 2, 2019.

According to Section 46(4) of the *Act*, the Tenants have 5 days to pay the overdue rent or to dispute this Notice. Section 46(5) of the *Act* states that *"If a tenant who has received a notice under this section does not pay the rent or make an application for dispute resolution in accordance with subsection (4), the tenant is conclusively*

presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit to which the notice relates by that date.”

As the fifth day after being deemed to have received the Notice fell on Friday May 10, 2019, the Tenants must have paid the rent in full or made an Application to dispute the Notice by this day at the latest. The undisputed evidence is that the Tenants did not pay the rent to cancel the Notice by May 10, 2019 or make an Application to Dispute the Notice. Moreover, the Tenants did not establish that they had a valid reason for withholding the rent pursuant to the *Act*.

As the Landlord’s Notice is valid, as I am satisfied that the Notice was served in accordance with Section 88 of the *Act*, and as the Tenants have not complied with the *Act*, I uphold the Notice and find that the Landlord is entitled to an Order of Possession pursuant to Sections 52 and 55 of the *Act*.

Conclusion

I grant an Order of Possession to the Landlord **two days after service of this Order** on the Tenants. Should the Tenants 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: July 5, 2019

Residential Tenancy Branch