



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on July 25, 2019 (the "Application"). The Landlords applied for an order of possession based on an undisputed 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated May 30, 2019 (the "10 Day Notice"), pursuant to the *Residential Tenancy Act* (the "Act").

The Landlords attended the hearing and were assisted by M.N., an agent. The Landlords' son, N.U., also attended the hearing. M.N. and N.U. provided affirmed testimony on behalf of the Landlords, who did not participate in the hearing. The Tenant did not attend the hearing.

On behalf of the Landlords, M.N. testified the Notice of Dispute Resolution Hearing and documentary evidence were served on the Tenant by registered mail on July 30, 2019. Canada Post registered mail tracking information was submitted in support. Pursuant to section 89 and 90 of the *Act*, documents served by registered mail are deemed to be received 5 days later. Therefore, I find the above documents are deemed to have been received by the Tenant on August 4, 2019.

M.N. and N.U. were given 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 to be Decided

Are the Landlords entitled to an order of possession?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirms the tenancy began on February 14, 2013. Rent in the amount of \$1,150.00 per month is due on the first day of each month. The Tenant paid a security deposit but M.N. and N.U. were unable to confirm the amount held by the Landlords.

According to M.N., the Tenant did not pay rent when due. Accordingly, the Landlords issued the 10 Day Notice, which was served on the Tenant by attaching a copy to the Tenant's door on May 30, 2019. A Proof of Service document confirming service in this manner was witnessed by M.N. was submitted in support.

According to M.N., the Tenant did not dispute the 10 Day Notice or pay rent after being served with the 10 Day Notice.

The Tenant did not attend the hearing to dispute the Landlords' evidence.

Analysis

Based on the unchallenged and affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

The Landlords sought an order of possession. In this case, M.N. testified, and I find, that the 10 Day Notice was served on the Tenant by leaving a copy attached to the door of the Tenant's rental unit on May 30, 2019. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 3 days later. I find the Tenant is deemed to have received the 10 Day Notice on June 2, 2019. Accordingly, pursuant to section 46(4) of the *Act*, the Tenant had until June 7, 2019, to either pay rent in full or to dispute the 10 Day Notice by filing an application for dispute resolution. M.N. testified that the Tenant did not pay rent after being served with the 10 Day Notice and did not dispute it by making an application for dispute resolution, in accordance with section 46(4) of the *Act*. As a result, pursuant to section 46(5) of the *Act*, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the 10 Day Notice and must vacate the rental unit. Therefore, I find the

Landlords are entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

In addition, having been successful, I find the Landlords are entitled to recover the \$100.00 filing fee paid to make the Application, which I order may be retained from the security deposit held.

Conclusion

The Landlords are granted an order of possession, which will be effective two (2) days after it is served on the Tenant. The order of possession may be filed in 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: August 29, 2019

Residential Tenancy Branch