



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Preliminary matter

This application was originally made under the Direct Request process which is an Ex-Parte process based on paper submissions only. As such the submissions must be complete and have no ambiguities. The Landlord's application did not clearly state the terms of the tenancy agreement and the proof of service witness did not sign the service document; therefore it was unclear to the adjudicator what the terms of the tenancy were and if the application package was served correctly. Consequently, the application was adjourned to a participatory hearing on today's date.

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord's agent said the Landlord served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on September 11, 2019. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

Background and Evidence

This tenancy started in April 2019 as a month to month tenancy. Rent is \$900.00 per month payable on the 1st day of each month. The Tenant did not pay a security deposit.

The Landlord's agent said that the Tenant did not pay \$900.00 of rent for each month of June and July 2019 when it was due and as a result, on July 16, 2019 he posted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated July 16, 2019 on the Tenant's door. The Landlord said the Tenant has unpaid rent for August, September and October 2019 as well in the amount of \$900.00 for each month. The Landlord said he is requesting an Order of Possession for as soon as possible and a monetary order for 5 months at \$900.00 per month in the amount of \$4,500.00.

The Landlord also sought to recover the \$100.00 filing fee for this proceeding.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy three days after it was posted on the door, or on July 19, 2019. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than July 24, 2019.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55 of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for June through to October 2019, in the amount of \$4,500.00.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$100.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

| | | |
|--------------------|------------|------------|
| Rent arrears: | \$4,500.00 | |
| Recover filing fee | \$ 100.00 | |
| Subtotal: | | \$4,600.00 |
| Balance Owing | | \$4,600.00 |

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$4,600.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) 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: November 4, 2019

Residential Tenancy Branch