



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for possession under a 10-Day Notice to End Tenancy for Unpaid Rent (“Ten-Day Notice “) pursuant to sections 46 and 55;

I conducted this hearing by teleconference. B.S. (property manager and agent) and R.M. (owner and landlord) attended for the landlord (“the landlord”). The landlord provided affirmed testimony and had the opportunity to submit documentary evidence and make submissions.

The tenant did not attend the hearing. I kept the teleconference line open from the time the hearing was scheduled for ten minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant had been provided.

The landlord testified the landlord served the tenant with the Application for Dispute Resolution and supporting documents pursuant to section 89 of the *Act* by registered mail sent on August 30, 2020. The landlord provided the Canada Post tracking number for the registered mail and submitted a copy of the receipt along with a photo of the envelope. Pursuant to sections 89 and 90, I find the landlord served the tenant on September 4, 2020, the 5th day after mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession pursuant to sections 46 and 55 of the *Act*?

Background and Evidence

The landlord testified that the parties entered into a signed residential tenancy agreement commencing April 1, 2020. Rent is currently \$1,300.00 a month payable on

the first of the month. The landlord submitted a copy of the agreement signed by both parties. The landlord testified the tenant paid a security deposit of \$650.00 at the start of the tenancy.

The landlord submitted a copy of the Ten-Day Notice to End Tenancy for Nonpayment of Rent (“the Ten-Day Notice”) dated September 2, 2020 and testified the landlord served the Ten-Day Notice on the tenant by posting on the tenant’s door on that day, thereby effecting service three days later pursuant to section 90, that is, on September 5, 2020. The landlord also provided uncontracted affirmed testimony that the tenant had not paid any rent since that time and a balance of \$10,000.00 is owing.

The landlord filed a witnessed Proof of Service Notice to End Tenancy form in support of the landlord’s testimony regarding posting of the Notice.

The landlord submitted a copy of the Ten-Day Notice with an effective vacancy date of September 12, 2020 (corrected to September 15, 2020) as evidence. The Notice requires the tenant to pay the rent and utilities to the landlord or file an Application for Dispute Resolution within five days.

The landlord testified the provision of electricity to the unit was cut off four weeks ago for nonpayment of the account.

The landlord testified the tenant did not pay the rent owing or file an Application for Dispute Resolution within five days and a balance remains owing. The tenant has made no subsequent payments and continued to reside in the rental unit.

The landlord did not request a monetary order for outstanding rent or reimbursement of the filing fee of \$100.00.

The landlord requested an order of possession effective two days after service.

Analysis

I have reviewed all documentary evidence and testimony.

I find the form and content of the Ten-Day Notice complies with section 52 of the *Act*. I find the tenant was served with the Ten-Day Notice on September 5, 2020 in accordance with sections 88 and 90 of the *Act*.

I find the tenant did not pay the overdue rent or dispute the Ten-Day Notice within the five-day period following service.

Therefore, pursuant to section 46(5), the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice (September 15, 2020) requiring the tenant to vacate the rental unit by that date.

As the tenant continued to occupy the unit, I find the landlord is entitled to an order of possession under section 46, effective two days after service.

Conclusion

I grant the landlord an Order of Possession effective two days after service on the tenant.

This Order must be served on the tenant. If the tenant fails to comply with this Order, the landlord may file the order with the Supreme Court of British Columbia to be enforced as an Order of that Court.

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: December 14, 2020

Residential Tenancy Branch