



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPN, FFL

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) by registered mail on April 29, 2021 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the Hearing Package on May 4, 2021. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The tenancy started with the Tenant alone on April 1, 2021 after the co-tenant moved out of the unit. Rent of \$650.00 is payable on the first day of each month. No security deposit was collected. The Tenant failed to pay rent and on April 5, 2021 the Landlord

served the Tenant with a 10-day notice to end tenancy for unpaid rent (the “Notice”). The Notice is dated April 5, 2021 and sets out an effective date of April 16, 2021. the Landlord served the Tenant with the Notice by posting it on the door on April 5, 2021. The Notice sets out unpaid rent of \$1,710.00. The Tenant did not dispute the Notice and has not moved out of the unit. The Tenant has not paid any rent since the onset of the tenancy. The Landlord is not seeking unpaid rent and waives the filing fee claim.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Section 55(2) of the Act provides that where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired, a landlord may request an order of possession. Based on the Landlord’s undisputed evidence I find that the Landlord gave the Tenant the Notice, that the Tenant did not dispute the Notice and that the time to dispute the Notice has expired. Based on the Landlord’s undisputed evidence that the Tenant has not moved out of the unit I find that the Landlord is entitled to an order of possession.

Conclusion

I grant an Order of Possession to the Landlord effective two (2) days after service of the Order of Possession on the Tenant. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and 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 Act.

Dated: August 23, 2021

Residential Tenancy Branch