



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities.

The Agent for the Landlord stated that on November 05, 2021 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch on November 03, 2021 was sent to the Tenant, via registered mail, at the service address noted on the Application. The Agent for the Landlord cited a Canada Post tracking number that corroborates this statement.

The Agent for the Landlord stated that on November 05, 2021 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch on November 03, 2021 was also personally served to the Tenant,

In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing. As the documents were properly served to the Tenant, the evidence was accepted as evidence for these proceedings and the hearing proceed in the absence of the Tenant.

The Landlord was given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. He affirmed that he would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The Landlord was advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. He affirmed that he would not record any portion of these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Agent for the Landlord stated that:

- this tenancy began on November 01, 2013;
- the Tenant was required to pay monthly rent of \$475.00 by the first day of each month;
- the Tenant has not yet paid any of the rent that was due on October 01, 2021;
- a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, which had an effective date of October 28, 2021, was posted on the door of the rental unit on October 12, 2021;
- the same Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was also mailed to the Tenant, via registered mail, on October 12, 2021;
- a Canada Post tracking number for the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was cited; and
- he has not been served with notice that the Tenant disputed the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$475.00 by the first day of each month and that the Tenant has not paid rent for October of 2021.

Section 46(1) of the *Act* entitles landlords to end a tenancy within ten days if rent is not paid when it is due by providing proper written notice. On the basis of the undisputed evidence I find that a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities was served to the Tenant on October 12, 2021, by posting it on the day and by sending it by registered mail.'

Section 90 of the *Act* stipulates that a document that is posted on a door is deemed to be received on the third day after it is posted. I therefore find that the Tenant is deemed

to have received this Ten Day Notice to End Tenancy for Unpaid Rent or Utilities on October 15, 2021.

Section 46(4) of the *Act* stipulates that a Tenant has five days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant is conclusively presumed to have accepted that the tenancy ended on October 28, 2021. On this basis I grant the landlord an Order of Possession.

Conclusion

I grant the Landlord an Order of Possession that is effective **two days after it is served upon the Tenant**. This Order may be served on the Tenant, filed with 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: January 06, 2022

Residential Tenancy Branch