



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SANFORD HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for an order of possession based on an undisputed 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated August 5, 2022 (10 Day Notice).

An agent for the landlord, JO (agent) attended the teleconference hearing. During the hearing the agent was given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated September 9, 2022 (Notice of Hearing), application and documentary evidence (Hearing Package) were considered. The agent testified that the Hearing Package was served on the tenant by posting to the tenant's door on September 9, 2022 at 1:15 p.m. and was witnessed by DJ. Section 90 of the Act states that documents served by posting to the door are deemed served 3 days after they are posted. Based on the above and without any evidence before me to prove to the contrary, I find that the tenant was deemed served with the Hearing Package as of September 12, 2022. Give the above, I find this matter to be undisputed by the tenant pursuant to Residential Tenancy Branch (RTB) Rules 7.3 and 7.4 of the Rules of Procedure (Rules) which apply and state:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Preliminary and Procedural Matters

The agent confirmed their email address at the outset of the hearing and stated that they understood that the Decision and any applicable orders would be emailed to them. As the landlord did not have an email address for the tenant, the decision will be sent by regular mail to the tenant.

In addition, the agent confirmed that the landlord is not seeking a monetary order for unpaid rent or the filing fee as they are only seeking an order of possession.

Issue to be Decided

- Is the landlord entitled to an order of possession under the Act?

Background and Evidence

A copy of the tenant agreement was submitted in evidence. The tenancy began on April 15, 2021. The agent stated that the tenant's contribution towards the monthly rent is \$375.

The landlord applied for dispute resolution on August 23, 2022. The agent testified that the 10 Day Notice was served by posting to the tenant's door on August 5, 2022 at 12:45 p.m. and was witnessed by DJ. The 10 Day Notice indicates that \$375 was owed in rent as of August 1, 2022. The landlord stated that the tenant has not returned the rental unit keys and continues to occupy the rental unit by having some worthless personal items in the rental unit. The landlord testified that the tenant did not dispute the 10 Day Notice. The effective vacancy date listed on the 10 Day Notice was August 19, 2022.

The landlord is seeking an order of possession as soon as possible.

Analysis

Based on the undisputed documentary evidence and undisputed testimony provided by the agent during the hearing, and on the balance of probabilities, I find the following.

Order of possession – I accept the agent’s undisputed testimony and I find that the tenant failed to pay any of the amount claimed by the landlord as owing or dispute the 10 Day Notice within 5 days after receiving the 10 Day Notice. I find the tenant was deemed served as of August 8, 2022 as the deemed service date is 3 days for items posted to the door. The effective vacancy date of the 10 Day Notice is listed as August 19, 2022. I find the tenant is conclusively presumed pursuant to section 46 of the Act, to have accepted that the tenancy ended on the effective vacancy date of the 10 Day Notice, which was August 19, 2022. The tenant continues to occupy the rental unit by having their personal items in the rental unit and by not returning the rental unit keys. Therefore, **I grant** the landlord an order of possession effective **two (2) days** after service on the tenant. I find the tenancy ended on August 19, 2022 and that the tenant has overheld the rental unit since that date.

Conclusion

The landlord’s application is fully successful.

The landlord has been granted an order of possession effective two (2) days after service upon the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia. The tenancy ended on August 19, 2022.

The Decision and order of possession will be emailed to the landlord for service on the tenant. The tenant will be sent the Decision by regular mail as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 24, 2022

Residential Tenancy Branch