



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession.

The landlord attended the hearing at the start time of 10:30 a.m.; the tenant entered the hearing at 10:40 a.m. while the landlord was testifying in relation to service of the 10 Day Notice. The tenant was then provided with a summary of the testimony to that point and a review of the application. The landlord and tenant each provided affirmed testimony.

Preliminary Matters

After explaining the hearing process to the tenant, the tenant began to interrupt and when asked a specific question would make submissions that were not relevant to the application. The tenant refused to cease speaking, despite repeated attempts to have her respond to only issues that were relevant to the payment of rent. At this point the tenant was muted, so that she could hear the landlord's testimony and my comments.

The tenant was taken off mute, so that she could respond to a question and, again, the tenant refused to cease speaking and continued to make numerous submissions that were not relevant to the matter on the landlord's application; unpaid rent. The tenant was again placed on mute and several minutes later she chose to exit the hearing before it was properly concluded.

The landlord's evidence that contained a copy of the tenancy agreement was set aside, as it was not served to the tenant.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Background and Evidence

The tenancy commenced on August 1, 2011, rent is \$800.00 due on the first day of each month. The co-tenant moved out at some point; he was not removed from the signed tenancy agreement. The tenant has an occupant in the home; he has never paid rent to the landlord.

The landlord stated that on December 16, 2011, a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of December 26, 2011, was served by posting to the tenant's door at approximately 2 p.m.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$1,150.00 within five days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The landlord stated the tenant did not pay \$350.00 owed in November and has not paid rent since. The tenant stated her roommate moved out and she cannot afford to pay all of the rent. The tenant acknowledged receipt of the 10 Day Notice on December 16, 2011. The tenant offered no evidence that she had paid her rent in full within 5 days of December 16, 2011.

Analysis

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on December 26, 2011, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has five (5) 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. In the circumstances before me I have no evidence that the tenant exercised either of these rights, therefore; pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended. On this basis I will grant the landlord an Order of Possession that is effective 2 days after service to the tenant.

Conclusion

The landlord has been granted an Order of Possession that is effective 2 days after service to 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 *Residential Tenancy Act*.

Dated: January 17, 2012.

Residential Tenancy Branch