



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing dealt with a landlord's application for an Order of Possession. The tenant did not appear at the hearing. The landlord testified that he posted the hearing documents on the tenant's door on November 29, 2012 and provided a signed statement of the person who witnessed the service. Section 90 deems a document to be served three days after it is posted. I was satisfied the landlord sufficiently served the tenant with the hearing documents for purposes of an Order of Possession and I proceeded to hear from the landlord without the tenant present.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord testified that the tenant was required to pay rent of \$700.00 on the 1st day of every month. The tenant failed to pay rent for September 2012. On October 2, 2012 the tenant made a partial payment of \$450.00. On October 15, 2012 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the door of the rental unit. The Notice indicates \$950.00 was outstanding as of October 1, 2012 and had a stated effective date of October 24, 2012. The tenant did not file to dispute the Notice and did not pay the outstanding rent.

The landlord testified that he believes the tenant may have acquired new housing but the tenant has been seen coming and going from the property and appears to be slowly removing the remainder of her possessions from the rental unit. The landlord seeks an Order of Possession for this unit.

Included in the landlord's evidence package were copies of: the ledgers for September and October 2012; the 10 Day Notice; and the Proof of Service for the hearing documents.

Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

I am satisfied by the undisputed testimony that the landlord served the tenant with the 10 Day Notice as he submitted. Since the Notice was posted on the door it is deemed to be received three days later pursuant to section 90 of the Act. Accordingly, the effective date on the Notice automatically changes to read October 28, 2012 under section 53 of the Act.

Since the tenant did not pay the outstanding rent or dispute the Notice I find the tenancy ended on October 28, 2012. As the tenant has not yet returned vacant possession of the unit to the landlord I find the landlord entitled to an Order of Possession. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenant.

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 13, 2012.

Residential Tenancy Branch