



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing dealt with the landlord's application pursuant to section 55 of the *Residential Tenancy Act* (the "Act") for an order of possession for unpaid rent.

The tenant did not participate in the conference call hearing, which lasted approximately 10 minutes. The landlord's agent (the "landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed he was an agent of the landlord's company named in this application, and had authority to speak on its behalf.

The landlord testified that the tenant was served with the landlord's application for dispute resolution package on October 13, 2016, by way of posting to the rental unit door where the tenant resides. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application for dispute resolution package on October 16, 2016, three days after its posting.

Issue(s) to be Decided

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

Background and Evidence

As per the estimation of the landlord, the tenancy began on December 1, 2012 on a month to month basis. Rent in the amount of \$420.00 is payable on the first of each month. The tenant remitted a security deposit in the amount of \$200.00 in May of 2013. The tenant continues to reside in the rental unit.

A 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice") was issued to the tenant on September 16, 2016 by way of posting to the rental unit door where the tenant resides. The notice indicates an effective move-out-date of September 29, 2016. In accordance with sections 88 and 90 of the *Act*, I find that the

tenant was served with the landlord's 10 Day Notice on September 19, 2016, three days after its posting.

Analysis

Section 46 of the *Act* provides that upon receipt of a notice to end tenancy for unpaid rent or utilities the tenant may, within five days, pay the overdue rent or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does not pay the overdue rent or file an application, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must move out of the rental unit.

Based on the landlord's testimony and the notice before me, I find that the tenant was served with an effective notice. As the tenant did not pay the overdue rent or file an application to dispute the notice within five days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice, and must move out of the unit. As this has not occurred, I find that the landlord is entitled to a two (2) day order of possession, pursuant to section 55 of the *Act*.

Conclusion

I grant an order of possession to the landlord effective **two (2) days after service on 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 05, 2016

Residential Tenancy Branch