



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent and utilities pursuant to section 67;
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 2:00p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord testified that on September 7, 2022, a copy of the Application for Dispute Resolution and Notice of Hearing was posted on the tenant's door. N.V. witnessed the documents being posted.

Based on the above evidence, I am satisfied that the tenants were deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. However, the portions of the landlord's application requesting monetary compensation are dismissed with leave to reapply as the application for dispute resolution was not served on the tenant by a method permitted under section 89 of the Act. The landlord served the application by posting it to the door of the rental premises. Section 89 of the Act permits posting as a method of service for the purposes of an application for an order of possession but not for a monetary order.

The hearing proceeded in the absence of the tenants.

Issues

Is the landlord entitled to an order of possession pursuant to a 10 Day Notice to End Tenancy for unpaid rent (the 10 Day Notice)?

Background and Evidence

The tenancy began on February 7, 2022, with a monthly rent of \$2000.00 payable on the 3rd day of each month.

The landlord submitted a copy of a 10 Day Notice dated June 7, 2022. The 10 Day Notice indicates an outstanding rent amount of \$2000.00 which was due on June 3, 2022. The 10 Day Notice provides that the tenant had five days from the date of service to pay the outstanding rent in full or apply for Dispute Resolution or the tenancy would end on the stated effective date of the Notice.

The landlord testified that the tenants were served the 10 Day Notice by posting a copy to the door of the rental premises on June 7, 2022.

The landlord testified that the tenant did not pay the outstanding amount of rent as indicated in the 10 Day Notice within five days of service of the Notice. The landlord testified the tenants eventually paid the outstanding June rent but not until June 27, 2022. The landlord testified that the tenants have not paid any rent since.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted an end to the tenancy.

I am satisfied that the tenants were deemed served with the 10 Day Notice on June 10, 2022, three days after its posting, pursuant to sections 88 & 90 of the Act. The tenants would have had until June 15, 2022 to pay the outstanding amount as per the 10 Day Notice which they failed to do.

I find that the Notice issued by the landlord complies with the form and content requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenants. Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: September 27, 2022

Residential Tenancy Branch