



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

INTERIM DECISION

Dispute Codes

OPR, MNR and FF

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 74(2)(b) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that the landlord served the tenant with it by registered mail sent to her mother's residence on April 20, 2009.

Such service does not meet the regular requirements of section 89 of the *Act*. However, taking into account that the landlord's submission states that the tenant has not been seen for one to two months and, the tenant has left her children at her mother's address, I have exercised my discretion under section 71(2)(c) of the *Act* to find that service has been sufficiently given. In addition, the landlord is being pressed by a furniture rental company for access to their property within the rental unit.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent, a Monetary Order for the unpaid rent and filing fee under sections 55, 67, and 72 of the *Act*.

Background and Evidence

I have reviewed all documentary evidence submitted by the landlords, including:

- Proof of Service of the Notice of Direct Proceeding for the tenant;
- The residential tenancy agreement signed on January 14, 2009, indicating \$625 per month rent and a security deposit of \$637.50 paid January 15, 2009;
- A 10-day Notice to End Tenancy for unpaid rent, issued on February 10, 2009 with an effective vacancy date of February 25, 2009 for unpaid rent of \$1,225.
- Documentary evidence filed by the landlord indicates that the tenants were served the 10-day notice by posting on February 10, 2009. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days.

Analysis

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Given that the tenant has to all appearances abandoned the rental unit, the landlord is at liberty to take immediate possession of it under Regulation 24(1)(b)(i). To reinforce that right, I issue an Order of Possession Effective April 30, 2009, effective without service on the tenant.

I further find that the landlord is entitled to monetary compensation under section 67 of the Act, including recovery of the filing fee for this proceeding, calculated as follows:

January rent (one half month)	\$ 312.50
February rent	625.00

March rent	625.00
April rent	625.00
Filing fee	<u>50.00</u>
TOTAL	\$2,237.50

While the landlord made claim for \$3,175, I am unable to verify this claim based on the length of tenancy and the rental rate, and I cannot anticipate the amount of future loss of rent.

Thus, the landlords' copy of this decision is accompanied by an Order of Possession effective April 30, 2009 and a Monetary Order for \$2,237.50 for service on the tenant.

The Order of Possession is enforceable through the Supreme Court of British Columbia and the Monetary Order is enforceable through the Provincial Court of British Columbia.

April 29, 2009.

Dispute Resolution Officer