



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

OPR

Introduction

Both parties are hereby advised that this decision replaces the interim decision that I made earlier on this date. In the interim decision I determined that a conference call was required to determine the merits of this dispute, as the Application for Dispute Resolution included a request for a monetary Order. I now note that the Landlord has not made an application for a monetary Order, and I find that I can conclude this matter without reconvening the hearing. My interim decision is therefore set aside and the hearing will not be reconvened.

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) and 74(2) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 26, 2009 the Landlord served the Tenants with the Notice of Direct Request Proceeding by registered mail. The Landlord submitted a copy of a Canada Post Receipt, with a tracking number, which indicates that the Landlord mailed a package addressed to both Tenants at the rental unit. The Canada Post Website shows that this package was mailed on May 26, 2009 and was delivered on May 27, 2009.

Based on the written submissions of the Landlord, I find that at least one of the Tenants has been served with the Dispute Resolution Direct Request Proceeding documents. For the purposes of obtaining an Order of Possession, it is only necessary to serve one of the Tenants with the Notice of Direct Request Proceeding. I therefore determine that both parties have been sufficiently served with Dispute Resolution Direct Request Proceeding documents for the purposes of requesting an order of possession.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent and to recover the filing fee from the Tenants for the cost of the Application for Dispute Resolution, pursuant to sections 55 and 72 of the *Act*.

Background and Evidence

I have reviewed the following evidence that was submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding.
- A copy of a residential tenancy agreement between the Landlords and the Tenants. This agreement indicates that the tenancy began on March 01, 2004.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was signed on May 06, 2009, which states that the Tenants must vacate the rental unit by May 16, 2009 as they have failed to pay rent in the amount of \$1,090.00. The Notice states that the tenancy will end unless the Tenants pay the rent within five days of receiving the Notice or submit an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice.
- A copy of a Certificate of Service for 10 Day Notice, in which an agent for the Landlord declared that he attached the Notice to the front door of the rental unit at 1415 hours on May 6, 2009.
- A copy of receipt, which indicates that the Landlord received the outstanding rent on May 25, 2009, and that the payment was being accepted for use and occupancy only.

In the Application for Dispute Resolution the Landlord stated the 10 Day Notice to End Tenancy was posted on the front door of the rental unit on May 06, 2009.

Analysis

Based on the evidence provided by the Landlord, I find that a 10 Day Notice to End Tenancy was posted on the front door of the rental unit of May 06, 2009.

I have no evidence to show that the Tenants filed an Application for Dispute Resolution seeking to set aside the Notice to End Tenancy. Pursuant to section 46(5) of the *Act*, I therefore find that the Tenants accepted that the tenancy ended ten days after they are deemed to have received the Notice. I therefore find that the Landlord is entitled to the Order of Possession they requested.

Conclusion

I find that the Landlord is entitled to an Order of Possession effective two days after service on the Tenants. This Order may be served on the Tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

I find that the Landlord has established a monetary claim, in the amount of \$50.00, in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the amount of \$50.00. In the event that the Tenants do not comply with this Order, it may be served on the Tenants, filed with the Province of British Columbia Small Claims Court 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: June 04, 2009.

Dispute Resolution Officer