



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

OPR, MNR, MNSD, FF

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 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 and a monetary order.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which indicates that on May 27, 2009 an agent for the Landlord served the Tenant with the initials of "EK" 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 to the rental unit. The Canada Post website shows that this package was delivered on May 31, 2009.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which indicates that on May 27, 2009 an agent for the Landlord served the Tenant with the initials of "NB" 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 to the rental unit. The Canada Post website shows that this package has not yet been picked up by the recipient.

Based on the written submissions of the Landlord, I find that both Tenants have been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, 67, and 72 of the *Act*.

Background and Evidence

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

- A copy of two Proofs of Service of the Notice of Direct Proceeding for the tenant.

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- A copy of a residential tenancy agreement, which has been signed by both Tenants, which indicates that the tenancy began on November 01, 2008; that the Tenants were required to pay rent of \$1,000.00; and that the Tenant paid a security deposit of \$500.00 on October 27, 2008.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was signed by an agent for the Landlord on May 11, 2009, which states that the Tenants must vacate the rental unit by May 21, 2009 as they have failed to pay rent in the amount of \$1,000.00. that was due on May 01, 2009. The Notice states that the tenancy will end unless the Tenants pay the rent or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice.
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy that indicates that an agent for the Landlord personally served the Tenants with the Notice on May 11, 2009 at 1400 hours, in the presence of another agent for the Landlord, who also signed the Proof of Service.

In the Application for Dispute Resolution the Landlord declared the 10 Day Notice to End Tenancy for Unpaid Rent was personally served on May 11, 2009.

In the Application for Dispute Resolution, the Landlord stated that the Tenants have not paid rent for May of 2009.

Analysis

Based on the evidence provided by the Landlord, I find that a 10 Day Notice to End Tenancy was personally served on the Tenant on May 11, 2009.

Based on the evidence provided by the Landlord, I find that the Tenant had not paid outstanding rent of \$1,000.00 that was due on May 01, 2009 by the time the Landlord filed the Application for Dispute Resolution. I have no evidence to show that the Tenant paid the outstanding rent since the Landlord filed the Application for Dispute Resolution, and therefore I find that the Tenant owes rent in the amount of \$1,000.00.

I have no evidence to show that the Tenant 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 Tenant has accepted that the tenancy ended ten days after she is deemed to have received the Notice.



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Conclusion

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

I find that the Landlord has established a monetary claim, in the amount of \$1,050.00, which is comprised on \$1,000.00 in unpaid rent from May of 2009, plus \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. The Landlord is hereby authorized to retain the Tenant's security deposit, in the amount of \$501.35, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$548.65. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

As the Landlord did not disclose the date that the security deposit was made, I am unable to determine the amount of interest that is due on that deposit, and I am unable to apply the interest owing to this monetary award.

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 05, 2009.

Dispute Resolution Officer