Dispute Resolution Services

DECISION

Dispute Codes

OPR, MNSD, MNR, 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 declares that on December 08, 2009 an agent for the Landlord personally served the Tenant with the Notice of Direct Request Proceeding at the rental unit. The Landlord received the Direct Request Proceeding package on December 08, 2009 and initiated service that day.

Based on the written submissions of the Landlord, I find the Tenant has been duly 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 submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant

- A copy of a residential tenancy agreement that was signed by the Tenant, which indicates that the tenancy began on August 01, 2009, that the rent of $800.00 per month is due on the first day of the month, and that the Tenant paid a security deposit of $400.00

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was signed by an agent for the Landlord on December 02, 2009 which states that the Tenant

must vacate the rental unit by December 12, 2009 unless the Tenant pays the rent within five days of receiving the Notice or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice. The Notice declares that the Tenant owes rent, in the amount of $810.00, that was due on December 01, 2009.

- A copy of Proof of Service of the 10 Day Notice to End Tenancy, in which an unnamed person declared that the unnamed person personally served the Tenant with the Notice on December 02, 2009. The Proof of Service is signed by the Tenant, who declared that the Notice was served to her.

On the Application for Dispute Resolution, the Landlord indicates that the Tenant was personally served the 10 Day Notice to End Tenancy for Unpaid Rent to the Tenant on December 02, 2009 and that she has not paid rent for two months.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant was served with a Ten Day Notice to End Tenancy on December 02, 2009.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant had not paid $810.00 in rent at the time the Landlord filed this Application for Dispute Resolution. I have no evidence to shows that the Tenant paid the outstanding rent since filing the Application for Dispute Resolution, and therefore I find that the Tenant owes rent in the amount of $810.00.

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 on Decemebr 12, 2009.

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 $860.00**,** which is comprised of $810.00 in unpaid rent and $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 plus interest, in the amount of $400.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of $460.00**.** 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.

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 18, 2009.

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Dispute Resolution Officer