



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

OPR, 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 November 29, 2009 an agent for the Landlord personally served the female Tenant with the Notice of Direct Request Proceeding at the rental unit address. This document appears to be signed by the Tenant to acknowledge that the document was received. The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 29, 2009 an agent for the Landlord personally served the male Tenant with the Notice of Direct Request Proceeding at the rental unit address. This document appears to be signed by the Tenant to acknowledge that the document was received.

The Landlord received the Direct Request Proceeding package on November 27, 2009 and initiated service within three days.

Based on the written submissions of the Landlord, I find the 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; and to recover the filing fee from the Tenants 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 each the Tenant
- A copy of a residential tenancy agreement, which indicates that the tenancy began on April 01, 2009 and that the rent of \$845.00 is due on the first day of each month
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was signed by an agent for the Landlord on November 03, 2009 which states that the Tenants must vacate the rental unit by November 23, 2009 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. The Notice indicates that the Tenants owe rent, in the amount of \$875.00, that was due on November 01, 2009
- A copy of a Proof of Service of the Ten Day Notice to End Tenancy for Unpaid Rent, in which an agent for the Landlord declared that she personally served the male Tenant at 6:00 p.m. on November 03, 2009. The Proof of Service appears to be signed by the male Tenant.

On the Application for Dispute Resolution, the Landlord indicates that the Ten Day Notice to End Tenancy was personally served on November 03, 2009 and that the Tenant has not paid rent for November of 2009.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenants were served with a 10 Day Notice to End Tenancy on November 03, 2009. 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 November 23, 2009.

In the absence of evidence to the contrary, I find that the Tenants had not paid the outstanding rent from November of 2009, by the time the Landlord filed this Application for Dispute Resolution. I have no evidence to shows that the Tenants paid the outstanding rent since the Landlord filed the Application for Dispute Resolution, and therefore I find that the Tenants owe rent in the amount of \$875.00.

Conclusion

I find that the Landlord is entitled to an Order of Possession that is 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.

I find that the Landlord has established a monetary claim, in the amount of \$925.00, which is comprised on \$875.00 in unpaid rent and \$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 \$925.00. 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.

Dispute Resolution Officer