



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 declares that on January 21, 2010 the Landlord served the first Tenant 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 corroborates this declaration.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 21, 2010 the Landlord served the second Tenant 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 corroborates this declaration.

The Landlord received the Direct Request Proceeding package on January 20, 2010 and initiated service the next day.

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 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 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 that names the Landlords and the Tenants, which appears to be signed by the Tenant with the initials "A.T.". This

agreement indicates that the tenancy began on June 01, 2009; that the monthly rent of \$1,950.00 is due on the first day of each month; and that the Tenants paid a security deposit of \$1,125.00.

- A copy of a Notice of Tenant's Responsibilities form that appears to be signed by both Tenants.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was signed by a Landlord on January 07, 2010, which states that the Tenants must vacate the rental unit by January 17, 2010 as they have failed to pay rent in the amount of \$1,950.00 that was due on January 01, 2010. 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 Proof of Service of the 10 Day Notice to End Tenancy, in which the Landlord declared that the Notice was served to the Tenants by registered mail on January 09, 2010. The Landlord submitted a copy of a Canada Post Receipt, with a tracking number, which indicates that the Landlord mailed a package to the Tenants at an undisclosed address.

In the Application for Dispute Resolution the Landlord stated the Tenants were served with the 10 Day Notice to End Tenancy for Unpaid Rent by registered mail on January 09, 2010.

In the Application for Dispute Resolution, the Landlord stated that the Tenants owe \$1,950.00 in unpaid rent.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenants entered into a tenancy agreement that required the Tenants to pay monthly rent of \$1,950.00 on the first day of each month and that the Tenants paid a security deposit of \$1,125.00.

Based on the evidence provided by the Landlord, I find that a 10 Day Notice to End Tenancy was mailed to the Tenants on January 09, 2010.

In the absence of evidence to the contrary, I find that the Tenants had not paid outstanding rent of \$1,950.00 that was due on January 01, 2010, as stated on the 10 Day Notice to End Tenancy, by the time the Landlord filed the Application for Dispute Resolution. I have no evidence to show 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 \$1,950.00.

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. On this basis, I find that the Landlord is entitled to an Order of Possession.

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 \$2,000.00, which is comprised on \$1,950.00 in unpaid rent 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 Tenants' security deposit, in the amount of \$1,125.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$875.00. 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: February 01, 2010.

Dispute Resolution Officer