

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 25, 2010 the Landlord served the Tenant with the Notice of Direct Request Proceeding in person. Based on the evidence and written submissions of the Landlord, I find that the Tenant was served as required by s. 89 of the Act 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 Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlord submitted the following documentary evidence:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of a residential tenancy agreement which was signed by the parties on July 17, 2009 for a fixed term tenancy beginning August 1, 2009 for the monthly rent of \$925.00 due in advance on 1st of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 16, 2010 with an effective vacancy date of February 26, 2010 due to \$3,150.00 in unpaid rent.

The evidence filed by the Landlord does not indicate for which months and in which amounts rent is alleged to be in arrears but it does indicate that the Tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was posted on the door of the Tenant's rental unit on February 16, 2010. The Notice states that the Tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The Tenant applied for dispute resolution to cancel the Notice, however he abandoned that application and has not re-applied to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all of the documentary evidence and accept that the Tenant been served with the Notice to End Tenancy as declared by the Landlord. The Notice is deemed to have been received by the Tenant on February 19, 2010, and the effective date of the Notice is amended to March 1, 2010 pursuant to section 53 of the *Act*. As the Tenant has not applied to dispute the Notice within the 5 days granted under section 46 (4) of the *Act*, I find that the Tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find pursuant to s. 55(2)(b) of the *Act* that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I also find, however, that there is insufficient evidence to issue a monetary order for the amount alleged to be in arrears. Consequently, I order that the direct request proceeding be reconvened in accordance with section 74 of the *Act* so that further particulars can be obtained about the amount of rent alleged to be in arrears. Notices of Reconvened Hearing are enclosed with this decision for the Applicant to serve upon the Tenants within **three (3) days** of receiving this decision in accordance with section 88 of the *Act*.

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: March 16, 2010.

Dispute Resolution Officer