

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* (the "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 on each of the Tenants. The Proof of Service documents declare that on October 1, 2010 at 11:45 a.m., the Landlord's agent served the Notice of Direct Request Proceeding on the Tenant RP by leaving the documents with the Tenant RP at the rental unit, and on the Tenant SP by leaving the documents with the Tenant RP's girlfriend, who slid it under the Tenant SP's bedroom door.

Based on the written submissions of the Landlord, I find that the Tenants have been served, in accordance with the provisions of Section 89(2) of the Act, with the Direct Request Proceeding documents for the purpose of the Landlord's application for an Order of Possession.

I find that the Tenant RP has been served, in accordance with the provisions of Section 89(1) of the Act, with the Direct Proceeding documents for the purpose of the Landlord's application for a Monetary Order for unpaid rent. The Tenant SP was not served in accordance with the provisions of Section 89(1) of the Act.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding upon the Tenants;
- A copy of the Proof of Service of the Notice to End Tenancy upon the Tenants;

- A copy of a residential tenancy agreement which was signed by the Landlord's agent and the Tenant RP on June 9, 2010, indicating a monthly rent of \$1,195.00 due on the first day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on September 17, 2010, with a stated effective vacancy date of September 27, 2010, for \$1,195.00 in unpaid rent that was due on September 1, 2010.

The Landlord's Application for Dispute Resolution indicates that the Tenants owe rent in the amount of \$1,195.00 for the month of September, 2010.

The Landlord's documentary evidence indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the Notice on the Tenants' door at the rental unit on September 17, 2010 at 6:55 p.m. The Proof of Service document was signed by a Witness.

The Notice states that the Tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The Tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

The tenancy agreement was signed by the Landlord's agent and the Tenant RP only, and indicated that the Tenant SP was an adult occupant. There is insufficient evidence that the Tenant SP is a "tenant" and therefore the Landlord's application against the Tenant SP is dismissed without leave to reapply.

I have reviewed all documentary evidence and accept that Notice to End Tenancy was posted to the Tenant RP's door on September 17, 2010. Service in the manner is deemed to be effected 3 days after posting the Notice.

I accept the evidence before me that the Tenant RP failed to pay the rent owed within the 5 days granted under Section 46 (4) of the Act.

Based on the foregoing, I find that the Tenant RP is conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on September 30, 2010. I find that the Landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$1,195.00 against the Tenant RP.

Conclusion

I hereby provide the Landlord with an Order of Possession effective **two days after service of the Order** upon the Tenant RP. The Order must be served on the Tenant RP and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord a Monetary Order in the amount of **\$1,195.00** against the Tenant RP. This Order must be served on the Tenant RP and may be filed in the Provincial Court (Small Claims) 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: October 18, 2010.
