



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

OPR, MNR

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 26, 2010 the Landlord personally served the male Tenant with the Notice of Direct Request Proceeding at the rental unit address. The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 26, 2010 the Landlord personally served the female Tenant with the Notice of Direct Request Proceeding at the rental unit address. 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 and to a monetary Order for unpaid rent, pursuant to sections 55 and 67 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 Tenant
- A copy of a residential tenancy agreement, which appears to be signed by both Tenants and which indicates that the tenancy began on November 01, 2010 and that the rent of \$850.00 per month 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 the Landlord on November 17, 2010 which declares that the Tenants must vacate the rental unit by November 27, 2010 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 declares that the Tenants owe rent, in the amount of \$850.00, for unpaid rent from November of 2010

- A copy of a Proof of Service of the Ten Day Notice to End Tenancy for Unpaid Rent, in which the Landlord stated that he posted the Notice to End Tenancy on November 17, 2010. The Landlord's brother signed the Proof of Service to indicate that he witnessed the service of the Ten Day Notice to End Tenancy.

On the Application for Dispute Resolution, the Landlord indicates that the Landlord posted the 10 Day Notice to End Tenancy on November 17, 2010 and that the Tenants did not pay rent for November of 2010.

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 Tenant to pay monthly rent of \$850.00.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenants had not paid rent for November of 2010 by the time the Landlord filed this Application for Dispute Resolution. I have no evidence to show that the Tenants paid the outstanding rent since the Application for Dispute Resolution was filed and therefore I find that the Tenants owe rent in the amount of \$850.00.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that a 10 Day Notice to End Tenancy was posted at the rental unit on November 17, 2010.

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 the Tenants are deemed to have received a Notice that was posted on November 17, 2010.

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 \$850.00, for unpaid rent and I grant the Landlord a monetary Order in that amount. 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: December 06, 2010.

Dispute Resolution Officer