



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

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 November 19, 2010 at 3:46 p.m., the Landlord served the Notice of Direct Request Proceeding on the Tenants by registered mail to the rental unit. The Landlord provided a copy of the registered mail receipts and tracking numbers in evidence. Based on the written submissions of the Landlord, I find that the Tenants have been served with the Direct Request Proceeding documents.

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 each of 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 parties on July 16, 2010, indicating a monthly rent of \$1,515.00 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 November 8, 2010, with a stated effective vacancy date of November 18, 2010,

for \$1,550.00 in unpaid rent, parking fees of \$90.00 and a late fee of \$25.00 that was due on November 1, 2010; and

- Copies of two letters from the Landlord to the Tenants, dated July 19, 2010 and November 10, 2010.

The Landlord's Application for Dispute Resolution filed November 19, 2010, indicates that the Tenants owe rent in the amount of \$1,515.00.

The Landlord's documentary evidence indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the document on the Tenants' door at 1:25 p.m. on November 8, 2010. 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

I have reviewed all documentary evidence and accept that Notice to End Tenancy was posted to the Tenants' door on November 8, 2010, in accordance with the provisions of Section 88(g) of the Act. Section 90 of the Act deems service in this manner to be effected 3 days after posting the documents. Therefore, I find that the effective date of the end of tenancy was November 21, 2010.

I accept the evidence before me that the Tenants 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 Tenants are conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on November 21, 2010. I find that the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent in the amount of \$1,515.00.

Conclusion

I hereby provide the Landlord with an Order of Possession effective **two days after service of the Order** upon the Tenants. The Order must be served on the Tenants 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 **\$1,515.00**. This Order must be served on the Tenants 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: December 1, 2010.
