



Dispute Resolution Services

Page: 1

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 for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 15, 2010 the landlord served the tenant with the Notice of Direct Request Proceeding via personal delivery at the rental unit.

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and monetary compensation 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 for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on July 13, 2009, indicating a monthly rent of \$750.00 due on the 1st day of every month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on December 2, 2010 with a stated effective vacancy date of December 12, 2010, for \$775.00 in unpaid rent as of December 1, 2010; and,
- A copy of a Proof of Service of the 10 Day Notice indicating landlord personally served the 10 Day Notice upon the tenant on December 2, 2010 in the presence of a witness.

The 10 Day Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant 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 the tenant has been served with a 10 Day Notice to End Tenancy as declared by the landlord. I accept the evidence before me that the tenant has failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the *Act*.

In light of the above, 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. Therefore, I find that the tenancy ended December 12, 2010 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenant. The Order of Possession may be filed in The Supreme Court of British Columbia and enforced as an Order of that court.

The landlord substantiated that the monthly rent is \$750.00 but did not provide sufficient evidence that the landlord was owed \$775.00 in rent as of December 1, 2010. Therefore, I provide the landlord with a Monetary Order in the amount of \$750.00 to serve upon the tenant. The Monetary Order may be filed in Provincial Court (Small Claims) to enforce as an Order of that court. The security deposit remains in trust to be administered in accordance with the *Act*.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlord is provided a Monetary Order in the amount of \$750.00 to serve upon the tenant.

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 17, 2010.

Dispute Resolution Officer