



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR

Introduction

This decision proceeded by way of a Direct Request Process, 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 seeking an Order of Possession and a monetary Order due to the tenant's failure to pay rent.

The landlord submitted a signed Proof of Service document confirming that the Notice of Direct Request Proceeding was issued to the tenant by registered mail on December 23, 2010.

Based on the documentary evidence provided by the landlord, I am satisfied that the tenant was served with notice of this proceeding by registered mail and I deem that the tenant received notice on the fifth day after the registered mail was sent pursuant to section 90(a) of the *Act*.

Issue(s) to be Decided

Did the tenant breach the tenancy agreement and *Act* entitling the landlord to a monetary claim in the sum of \$750.00 pursuant to sections 46, 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 document confirming service of the Notice of Direct Request Proceeding on the tenant by registered mail;
- A copy of the tenancy agreement signed by the parties on September 20, 2010 commencing a tenancy on October 1, 2010 for the monthly rent of \$750.00 due the 1st of each month;
- A copy of the 10 day Notice to End Tenancy due to Unpaid Rent which was signed by the landlord on December 8, 2010 and declares that the tenant failed to pay the rent owed of \$750.00 outstanding from December 2010. The notice

declares that the tenant must vacate the rental unit by December 18, 2010 unless the tenant pays the outstanding rent owed or has filed an application for Dispute Resolution to dispute the notice within five days of receiving the notice;

- A copy of the Proof of Service document provided by the landlord declaring that the 10 day Notice to End Tenancy was served on the tenant when it was posted to the door of the rental unit at 3:15 p.m. on December 8, 2010. The Proof of Service document declares that the service of the notice was witnessed by another employee of the landlord.

Analysis

Based on the evidence provided by the landlord and in the absence of evidence to the contrary, I find that the tenant has failed to pay the full rent owed for December 2010 in the amount of \$750.00 as required by the tenancy agreement. I find that the tenant was served with a 10 day Notice to End Tenancy due to Unpaid rent and that the tenant failed to either pay the outstanding rent or to file an application for Dispute Resolution to dispute the notice in the five days provided by section 46(4) of the *Act*.

Pursuant to section 46(5) of the *Act*, I find that the tenant has conclusively accepted the end of the tenancy agreement effective December 21, 2010 and on this basis I grant the landlord's application seeking an Order of Possession for the rental unit.

I am satisfied by the documentary evidence provided by the landlord that the tenant failed to pay the full rent owed for December 2010. As a result, I grant the landlord a monetary Order for the sum of \$750.00 pursuant to section 67 of the *Act*.

Conclusion

I find that the landlord is entitled to an Order of Possession of the rental unit effective **two (2) days** after it has been served upon the tenant. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.



Dispute Resolution Services

Page: 3

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I find that the landlord has established a monetary claim due to breach of the tenancy agreement by the tenant for the sum of **\$425.00**. This Order must be served on the tenant. This Order may be 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: January 06, 2011.

Residential Tenancy Branch