



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

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 landlords for an Order of Possession and a Monetary Order for unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding for each tenant to declare that on January 18, 2011 the landlords served each tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit. The landlord provided a Canada Post receipts and tracking numbers as evidence of service. Section 90 of the Act determines that the documents are deemed to have been received five days later.

Based on the written submissions of the landlords, I find that the tenants have been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession and monetary compensation for unpaid rent?

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each tenant, including the registered mail receipts;
- A copy of a residential tenancy agreement which was signed by the tenants on September 18, 2010, indicating a monthly rent of \$1,200.00 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 January 3, 2011 with a stated effective vacancy date of January 14, 2011, for \$1,200.00 in unpaid rent as of January 1, 2011; and,
- A copy of a Proof of Service of the 10 Day Notice indicating the landlords personally served the 10 Day Notice upon the male tenant at the landlords' residence on January 3, 2011 in the presence of a witness.

The 10 Day 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 the tenants have been served with a 10 Day Notice to End Tenancy as declared by the landlords. I accept the evidence before me that the tenants have 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*. Accordingly, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

In light of the above, I find that the tenancy ended January 14, 2011 and the landlords are entitled to an Order of Possession effective two (2) days after service upon the tenants. The Order of Possession may be filed in The Supreme Court of British Columbia and enforced as an Order of that court.

I find the landlords are entitled to monetary compensation for unpaid rent in the amount of \$1,200.00 and the landlords are provided Monetary Orders to serve upon the tenants. The Monetary Orders 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 landlords are provided an Order of Possession effective two (2) days after service upon the tenants. The landlord is provided Monetary Orders in the amount of \$1,200.00 to serve upon the tenants.

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 25, 2011.

Residential Tenancy Branch