



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 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 to declare that on April 12, 2011 the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit. Pursuant to section 90 of the Act the documents are deemed to be received by the tenant five days after mailing.

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 including the registered mail receipt;
- A copy of a residential tenancy agreement which was signed by the parties on June 24, 2006, indicating a monthly rent of \$760.00 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 April 2, 2011 with a stated effective vacancy date of April 12, 2011, for \$775.00 in unpaid rent as of April 1, 2011; and,

- A copy of a Proof of Service of the 10 Day Notice indicating the landlord posted the 10 Day Notice on the tenant's door on April 2, 2011 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 tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

In making this application the landlord stated that the rent has increased to \$775.00 since the tenancy began.

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. Since the Notice was posted it is deemed to be received three days later. The effective date is automatically changed to read April 15, 2011 in accordance with section 53 of the Act.

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. Accordingly, 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 April 15, 2011 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.

I find the landlord has substantiated an entitlement to unpaid rent of 760.00 as indicated by the tenancy agreement; however, in the absence of Notices of Rent Increase I do not award the landlord the total \$775.00. 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 \$760.00 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: April 26, 2011.

Residential Tenancy Branch