



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 June 1, 2011 the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit. The landlord provided a Canada Post receipt and tracking number as evidence of service. Section 90 of the Act determines that the documents are deemed to have been received five days later on June 6, 2011.

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 March 12, 2011, indicating a monthly rent of \$725.00 due on the 1st day of every month;
- A copy of the tenant's April 1, 2011 rent cheque that was returned by the bank;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 20, 2011 with a stated effective vacancy date of May 30, 2011, for \$1,812.50 in unpaid rent as of May 1, 2011; 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 May 20, 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 tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

In making this application the landlord has requested compensation in the amount of \$1,812.50 and in the details of dispute the landlord indicates that the tenant failed to pay rent for April and May 2011 and the security deposit was not received.

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*. 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.

In light of the above, I find that the tenancy ended May 30, 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.

Based upon the evidence and submissions before me, I find the landlord is entitled to monetary compensation for unpaid rent for the months of April and May 2011 in the amount of \$1,450.00 and the landlord is provided a Monetary Order in that amount to serve upon the tenant. The Monetary Order may be filed in Provincial Court (Small Claims) to enforce as an Order of that court.

I am satisfied the remainder of the landlord's monetary claim relates to the security deposit that was not paid. Since the tenancy has ended, I do not make any order for the tenant to pay the security deposit.

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 \$1,450.00 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: June 10, 2011.

Residential Tenancy Branch