

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 on the female Tenant. The Proof of Service document declares that on June 18, 2011 at 2:00 the Landlord PB served the Notice of Direct Request Proceeding on the female Tenant by leaving the documents with the female Tenant at the rental unit. Based on the written submissions of the Landlord, I find that the female Tenant was served with the Direct Request Proceeding documents further to the provisions of Section 89(1)(a) of the Act. The Landlords did not provide documentary evidence of proof of service upon the male Tenant and therefore their application against the male Tenant is dismissed.

Issue(s) to be Decided

- Are the Landlords entitled to an Order of Possession?
- Are the Landlords entitled to a Monetary Order 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 upon the female Tenant;
- A copy of the Proof of Service of the Notice to End Tenancy upon the Tenants;
- A copy of a residential tenancy agreement, which was signed by the Landlord PB and the Tenants on April 26, 2011, indicating a monthly rent of \$1,000.00 due on the first day of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on June 4, 2011, with an effective vacancy date of June 14, 2011, for \$1000.00 in unpaid rent that was due on June 1, 2011.

The Landlords' Application for Dispute Resolution filed June 15, 2011, indicates that the Tenants owe rent in the amount of \$1000.00 for the month of June, 2011.

The Landlords' documentary evidence indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by leaving the documents personally with the male Tenant at 2:30 p.m. on June 4, 2011. The Proof of Service document was signed by the male Tenant acknowledging receipt of the Notice to End Tenancy.

The Notice states that the Tenant had five days to pay the rent or apply for Dispute Resolution. The Tenant did not pay the rent arrears or 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 were duly served with the Notice to End Tenancy, in accordance with the provisions of Section 88(a) of the Act.

I accept the evidence before me that the Tenants failed to pay the rent owed within the 5 days granted under Section 46 (4) of the Act.

Based on the foregoing, I find that the Tenants are conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on June 14, 2011. I find that the Landlords are entitled to an Order of Possession and a Monetary Order for unpaid rent in the amount of \$1000.00 against the female Tenant.

Conclusion

The Landlords did provide documentary evidence that they served the male Tenant with the Notice of Direct Request Proceeding documents, and therefore their application against the male Tenant is dismissed.

I hereby provide the Landlords an Order of Possession effective **2 days after service of the Order** upon the female Tenant. The Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlords a Monetary Order in the amount of **\$1000.00** for service upon the female Tenant. This Order may be filed in the Provincial Court (Small Claims) 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: July 06, 2011.

Residential Tenancy Branch