



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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 on the Tenant. The Proof of Service document declares that on June 21, 2011 at 12:10 p.m. the Landlord's agent served the Notice of Direct Request Proceeding on the Tenant by courier to the rental unit. The Landlord provided a courier receipt in evidence. Based on the written submissions of the Landlord, and pursuant to the provisions of Section 71(2)(b), I find that the Tenant was served with the Direct Request Proceeding documents on June 21, 2011.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order 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 upon the Tenant;
- A copy of the Proof of Service of the Notice to End Tenancy upon the Tenant;
- A copy of a residential tenancy agreement, which was signed by the parties on August 9, 2010, indicating a monthly rent of \$900.00 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 7, 2011, with an effective vacancy date of June 17, 2011, for \$400.00 in unpaid rent that was due on June 1, 2011.

The Landlord's Application for Dispute Resolution filed June 21, 2011, indicates that the Tenants owe rent in the amount of \$900.00 for the month of June, 2011.

The Landlord's documentary evidence indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by leaving the documents personally with the male Tenant at 4:10 p.m. on June 7, 2011. The Proof of Service document was signed by a witness.

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 Tenant was 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 Tenant failed to pay the rent owed, as stated on the Notice to End Tenancy, within the 5 days granted under Section 46 (4) of the Act.

The Landlord's application filed June 21, 2011, indicates that rent in the amount of \$900.00 is owed for the month of June, 2011. The Notice to End Tenancy issued June 7, 2011, indicates rent in the amount of \$400.00 is owed for the month of June, 2011. The Landlord did not provide any explanation in her written documentation with respect to why the amount of rent owed increased by \$500.00 between June 7, 2011 and June 21, 2011. Therefore, the Landlord's application for a monetary order for unpaid rent is **dismissed with leave to reapply**.

Based on the foregoing, I find that the Tenant is conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on June 17, 2011. I find that the Landlord is entitled to an Order of Possession effective 2 days after service of the Order upon the Tenant.

Conclusion

The Landlord's application for a monetary order for unpaid rent is **dismissed with leave to reapply**.

I hereby provide the Landlord an Order of Possession effective **2 days after service of the Order** upon the Tenant. The Order may be filed in the Supreme Court of British Columbia 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 08, 2011.

Residential Tenancy Branch