

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.

The Landlord 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 July 29, 2011 at 2:46 p.m., the Landlord's agent served the Notice of Direct Request Proceeding on the female Tenant by couriering the documents to the rental unit. The Landlord provided a copy of the waybill and proof that the documents were delivered to the female Tenant on August 2, 2011. Based on the written submissions of the Landlord, I find that the female Tenant has been sufficiently served with the Direct Request Proceeding documents pursuant to the provisions of Section 71(2)(c) of the Act. **However, the Landlord is hereby cautioned that service by way of courier is not an allowable method of service as provided in Section 89 of the Act.**

The Landlord did not provide evidence that the male Tenant was served with the Notice of Direct Request Proceeding and therefore its application against the male Tenant is dismissed.

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 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 parties on November 26, 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 8, 2011, with an effective vacancy date of June 18, 2011, for \$750.00 in unpaid rent that was due on June 1, 2011.

The Landlord's Application for Dispute Resolution filed July 29, 2011, indicates that the Tenants owe rent for the month of June, 2011, in the amount of \$750.00.

The Landlord's documentary evidence indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the document on the Tenants' door at 3:00 p.m. on June 8, 2011. The Proof of Service document was signed by a witness.

The Notice states that the Tenants had five days to pay the rent or apply for Dispute Resolution. 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 were duly served with the Notice to End Tenancy, in accordance with the provisions of Section 88(g) of the Act. Section 90 of the Act deems service in this manner to be effected 3 days after posting the document.

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.

Section 53(1) of the Act states that if the Notice to End Tenancy indicates an incorrect end-of-tenancy, the Notice to End Tenancy is deemed to be changed to reflect the correct date. 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 21, 2011. I find that the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent in the amount of \$750.00 against the female Tenant.

Conclusion

I hereby provide the Landlord with 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 Landlord a Monetary Order in the amount of **\$750.00** 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: August 12, 2011.

Residential Tenancy Branch