



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 30, 2011 the landlord served the tenant with the Notice of Direct Request Proceeding personally.

Based on the written submissions of the landlord, I find that the tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*.

While the landlord has indicated an amount that he is claiming on the Application for Dispute Resolution, there is no indication as to why he is seeking the monetary order (ie. Damage to the unit; for unpaid rent or utilities; for all or part of the security deposit or for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement).

As the Direct Request process does not allow an opportunity to question the parties for clarity on these issues, I find I cannot consider the landlord's Application for any monetary amounts and I dismiss this portion of the landlord's Application with leave to reapply.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, and 55 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on March 15, 2011 for a month to month tenancy beginning on March 3, 2011 for

the monthly rent of \$1,550.00 due on the 1st of each month and a security deposit of \$775.00 was paid; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 19, 2011 with an effective vacancy date of September 30, 2011 due to \$2,450.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on September 19, 2011 at 10:00 a.m. and that this service was witnessed by a third party.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on September 22, 2011 and the effective date of the notice is amended to October 2, 2011, pursuant to Section 53 of the *Act*. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find 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.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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: October 03, 2011.

Residential Tenancy Branch