



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of 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 November 17, 2011 the Landlord served the Tenants with the Notice of Direct Request Proceeding via registered mail. Section 90 of the Residential Tenancy Act deems a document delivered in that manner to have been received (or served) on the fifth day after it was sent.

Based on the evidence and written submissions of the Landlord, I find that the Tenants were served as required by s. 89 of the Act with the Dispute Resolution Direct Request Proceeding documents.

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, 55 and 67 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlord submitted the following documentary evidence:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenants;
- A copy of a residential tenancy agreement which was signed by the parties on April 19, 2006 for a month-to-month tenancy beginning May 1, 2006 for the monthly rent of \$825.00 due in advance on the 1st day of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on November 3, 2011 with an effective vacancy date of November 16, 2011 due to \$825.00 in unpaid rent.

The evidence filed by the Landlord indicates that the Tenants failed to pay the rent owed for the month of November, 2011 and that on November 3, 2011, the Tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent when it was posted to the rental unit door. The Notice states that the Tenants had five days to pay the rent or

apply for Dispute Resolution or the tenancy would end. The Tenants did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all of the documentary evidence and accept that the Tenants have been served with the Notice to End Tenancy as declared by the Landlord. The Notice was deemed pursuant to s. 90 of the Act to be received by the Tenants 3 days after it was posted or on November 6, 2011 2010 and as a result, the effective date of the Notice is November 16, 2011. I accept the evidence before me that the Tenants have 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 that the Tenants are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I also find that the Landlord is entitled to recover unpaid rent for the period, November 1 – 23, 2011, in the pro-rated amount of \$632.50 and a loss of rental income for the period, November 24 – 30, 2011, in the pro-rated amount of \$192.50.

Conclusion

I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect **two days after service on the Tenants..** This Order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court. I also find that the Landlord is entitled to a Monetary Order for **\$825.00**. This Order may be filed in the Provincial (Small Claims) 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: November 23, 2011.

Residential Tenancy Branch