



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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*, and dealt with an application made 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 December 6, 2011 the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the *Act* provides that a document is deemed to have been served 5 days after mailing. Based on the written submissions of the landlord, I find that the tenant has been served with the Notice of Direct Request Proceeding requesting an Order of Possession and a monetary order.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on March 31, 2011 for a tenancy beginning April 1, 2011, for the monthly rent of \$1,090.00 per month payable on the 1st day of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which was issued on November 14, 2011 with an effective date of vacancy of November 24, 2011, due to \$1,290.00 in unpaid rent that was due on November 1, 2011. Both pages of the 2-page form have been provided;
- A copy of a Proof of Service for the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities that states that the tenant was served with the notice on November 14, 2011 by posing it to the door of the rental unit;

- The Landlord's Application for Dispute Resolution dated December 6, 2011 which states that the tenant has not paid the full amount of rent for the month of October, 2011, leaving a balance outstanding of \$200.00 in addition to rent in the amount of \$1,090.00 for the month of November, 2011.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with the notice to end tenancy as declared by the landlord, which is deemed to have been received by the tenant on November 17, 2011, being 3 days after posting the notice to the door of the rental unit.

I accept the evidence before me that the tenant has failed to pay the rent owed within the five days granted under section 46(4) of the *Act*. I find that 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.

I therefore find that the landlord is entitled to an order of possession, a monetary order for unpaid rent.

Conclusion

I grant the landlord an Order of Possession effective two days after service on the tenant. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find that the landlord has established a claim for \$1,290.00 in unpaid rent. This order may be filed in the Small Claims Court 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: December 15, 2011.

Residential Tenancy Branch