

## **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* (the "Act"), and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding on each of the Tenants. The Proof of Service documents declare that on November 09, 2011, at 18:28, the Landlord served the Notice of Direct Request Proceeding on the Tenants by registered mail to the rental unit. The Landlord provided copies of both of the registered mail receipts and tracking numbers in evidence. Based on the written submissions of the Landlord, I find that the Tenant were served with the Direct Request Proceeding documents pursuant to the provisions of Section 89(1)(c) of the Act. Service in this manner is deemed to be effected 5 days after mailing the documents. .

### **Issue(s) to be Decided**

- Is the Landlord entitled to an Order of possession?

### **Background and Evidence**

The Landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding upon each of the Tenants;
- A copy of the Proof of Service of the Notice to End Tenancy upon the Tenants;
- A copy of the Tenant Ledger;
- A copy of a residential tenancy agreement which was signed by the parties on January 1, 2010, indicating a monthly rent of \$925.00 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 October 7, 2011, with an effective vacancy date of October 20, 2011, for \$950.00 in unpaid rent that was due on October 1, 2011.

The Landlord's Application for Dispute Resolution filed November 08, 2011, indicates that the Tenants owe rent for the months of October and November, 2011.

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 12:49 p.m. on October 7, 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.

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.

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 October 20, 2011. I find that the Landlord is entitled to an Order of Possession effective 2 days after service of the Order upon the Tenants.

### **Conclusion**

I hereby provide the Landlord with an Order of Possession effective **2 days after service of the Order** upon the Tenants. 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: November 16, 2011.

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Residential Tenancy Branch