



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* (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 one of the Tenants. The Proof of Service document declares that on November 14, 2011, at 2:10 p.m., the Landlord served the Notice of Direct Request Proceeding on the Tenant DN by leaving the documents with him at the Landlord's place of business. Based on the written submissions of the Landlord, I find that the Tenant DN was served with the Direct Request Proceeding documents pursuant to the provisions of Section 89(1)(a) of the Act. The Landlord did not provide Proof of Service upon the Tenant MF and therefore its application against the Tenant MF is dismissed without leave to reapply.

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 Tenant DN;
- 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 April 19, 2010, indicating a monthly rent of \$1,077.00 due in advance on the last day of each month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on November 1, 2011, with an effective vacancy date of November 11, 2011, for \$1,077.00 in unpaid rent that was due on October 31, 2011.

The Landlord's Application for Dispute Resolution filed November 14, 2011, indicates that the Tenants owe rent for the month of November, 2011, in the amount of \$1,077.00.

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 9:10 p.m. on November 1, 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 November 11, 2011. Co-tenants are jointly and severally responsible for debts and damages incurred during the tenancy. I find that the Landlord is entitled to an Order of Possession and a Monetary Order against the Tenant DN for unpaid rent in the amount of \$1,077.00.

Conclusion

The Landlord's application against the Tenant MF is **dismissed without leave to reapply**, as the Landlord did not provide proof of service of the Notice of Direct Request Proceeding upon the Tenant MF.

I hereby provide the Landlord with an Order of Possession effective **2 days after service of the Order** upon the Tenant DN. 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 **\$1,077.00** for service upon the Tenant DN. 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: November 16, 2011.

Residential Tenancy Branch