



Dispute Resolution Services

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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 landlords for an Order of Possession and a monetary order for unpaid rent.

The landlords submitted 2 signed Proof of Service of the Notice of Direct Request Proceeding documents which both declare that on January 23, 2012 the landlords served each of the tenants individually 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 landlords, I find that the tenants have both been served with the Notice of Direct Request Proceeding requesting an Order of Possession and a monetary order.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent?

Are the landlords 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 landlords on October 1, 2011 and by the tenants on October 5, 2011, for a tenancy beginning October 1, 2011 for a fixed term to expire on April 1, 2012, for the monthly rent of \$1,125.00 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 January 12, 2012 with an effective date of vacancy of January 23, 2012, due to \$1,125.00 in unpaid rent that was due on January 1, 2012. 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 which states that the tenants were served with the notice on January 12, 2012 by posting it to the door of the rental unit;
- The Landlord's Application for Dispute Resolution filed January 23, 2012 which states that the tenants have not paid the full amount of rent for the month of January, 2012, leaving a balance outstanding of \$1,125.00.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with the notice to end tenancy as declared by the landlords, which is deemed to have been received by the tenants on January 15, 2012, being 3 days after posting the notice to the door of the rental unit.

I also accept the evidence before me that the tenants have failed to pay the rent owed within the five days provided for under Section 46 (4) of the *Act*. 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 therefore find that the landlords are entitled to an Order of Possession and a monetary order for unpaid rent.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlords effective two days after service on the tenants. If the tenants are served with the Order of Possession and fail to comply with the order, the order may be filed for enforcement in the Supreme Court of British Columbia as an order of that Court.

I further grant a monetary order in favour of the landlords as against the tenants, jointly and severally, pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,125.00. This order is final and binding on the parties and may be enforced.

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: January 30, 2012.

Residential Tenancy Branch