



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded 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 for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 25, 2012, at 6:00PM, the landlord served the tenants in person with the Notice of Direct Request Proceeding.

Section 90 of the Act determines that a document served in this manner is deemed to have been received on the same day.

Based on the written submissions of the landlord, I find that the tenants have been duly served with the Direct Request Proceeding documents.

Issues 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 Request Proceeding;
- A copy of a residential tenancy agreement which was signed by the parties on September 16, 2011, indicating that the tenants are obligated to pay \$900.00 in rent in advance on the first day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which the landlord served on the tenant on January 12, 2012 for \$1350.00 in unpaid rent due in the month of December 27th, 2011; and
- A copy of the Proof of service of the Notice to End Tenancy showing that on January 12th, 2012, at 5:00 PM, the landlord served the tenants in person with the notice to end tenancy.

Section 90 of the Act provides that because the notice to end tenancy was served in person, the tenants are deemed to have received the notice on the same day.

The Notice states that the tenants had five days to pay the rent in full 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 and the landlord alleged that the tenants did not pay the rental arrears.

Analysis

I find that the tenants received the notice to end tenancy on January 12, 2012. The tenants did not pay the rental arrears and did not apply to dispute the notice and are therefore conclusively presumed to have accepted that the tenancy ended on the effective date specified on the notice. I grant the landlord an order of possession which must be served on the tenants.

I accept the evidence before me that the tenants have failed to pay \$1350.00 in rent for the month of December 2011. I find that the landlord is entitled to recover the rental arrears and I grant the landlord a monetary order for \$1350.00.

Conclusion

I grant the landlord an order of possession. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

Pursuant to Section 67 of the Act, I grant the landlord a monetary order for \$1350.00. This order may be filed in the Small Claims Division of the Provincial 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: February 8, 2012

Residential Tenancy Branch