



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 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 February 8, 2012 the Landlord served the Tenant in person with the Notice of Direct Request Proceeding. Based on the evidence and written submissions of the Landlord, I find that the Tenant was served as required by s. 89 of the Act with the Dispute Resolution Direct Request Proceeding documents.

In her written submissions, the Landlord claimed that the Tenant advised her that his co-tenant moved out prior to February 2012. RTB Policy Guideline #13 (Rights and Responsibilities of Co-tenants) says as follows at p. 1:

“Co-tenants are two or more tenants who rent the same property under the same tenancy agreement. Co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. This means the Landlord can recover the full amount of the rent, utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord. Where co-tenants have entered into a fixed term lease agreement, and one tenant moves out before the end of the term that tenant remains responsible for the lease until the end of the term.”

Consequently, even though the tenancy agreement shows two parties as Tenants, namely, the Tenant, T.P., and his co-tenant, S.M., I find that the Landlord may proceed in this matter against T.P. solely.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent and to a Monetary Order for unpaid rent pursuant to sections 46, 55 and 67 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlord submitted the following documentary evidence:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of a residential tenancy agreement which was signed by the Tenant and a co-tenant (S.M.) on May 3, 2011 for a one year fixed term tenancy beginning May 3, 2011 for the monthly rent of \$1,300.00 due in advance on the 1st day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 2, 2012 with an effective vacancy date of February 12, 2012 due to \$1,300.00 in unpaid rent.

The evidence filed by the Landlord indicates that the Tenant failed to pay the rent owed for the month of February, 2012 and that the Tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent in person on February 2, 2012. The Notice states that the Tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The Tenant did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all of the documentary evidence and accept that the Tenant been served with the Notice to End Tenancy as declared by the Landlord. The Notice was received by the Tenant on February 2, 2012, and the effective date of the Notice is February 12, 2012.

I accept the evidence before me that the Tenant has failed to pay the reduced rent owed for February 2012 within the 5 days granted under section 46 (4) of the *Act*. Based on the foregoing, 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.

Conclusion

I find pursuant to s. 55(2)(b) of the *Act* that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I also find that the Landlord is entitled to a Monetary Order for the unpaid rent in the amount of **\$1,300.00**. This Order may be filed in the Provincial (Small Claims) 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: February 13, 2012.

Residential Tenancy Branch