



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 55(4) and 74(2) of the *Residential Tenancy Act (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 which declares that on May 19, 2012 the Landlord served the male Tenant with the Notice of Direct Request Proceeding by sending it to the rental unit via registered mail. The Landlord submitted a copy of a Canada Post Receipt, with a tracking number, which corroborates that a package was mailed to the male Tenant at the rental unit. Based on the written submissions of the Landlord, I find the male Tenant has been served with the Dispute Resolution Direct Request Proceeding document. Section 90 of the *Act* stipulates that a document that is served by mail is deemed received on the fifth day after it is mailed which, in these circumstances, is May 24, 2012.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 19, 2012 the Landlord served the female Tenant with the Notice of Direct Request Proceeding by sending it to the rental unit via registered mail. The Landlord submitted a copy of a Canada Post Receipt, with a tracking number, which corroborates that a package was mailed to the female Tenant at the rental unit. Based on the written submissions of the Landlord, I find the female Tenant has been served with the Dispute Resolution Direct Request Proceeding document. Section 90 of the *Act* stipulates that a document that is served by mail is deemed received on the fifth day after it is mailed which, in these circumstances, is May 24, 2012.

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 55 and 67 of the *Act*.

Background and Evidence

I have reviewed the following evidence that was submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each Tenant.
- A copy of a residential tenancy agreement which appears to be signed by both Tenants that indicates that the rent of \$780.00 is due by the first day of each month.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was signed by the Landlord and is dated May 09, 2012, which declares that the Tenants must vacate the rental unit by May 20, 2012 as they have failed to pay rent in the amount of \$3,280.00 that was due on May 01, 2012. The Notice declares that the tenancy will end unless the Tenants pay the rent within five days of receiving the Notice or submit an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice.
- A copy of a signed Proof of Service of the 10 Day Notice to End Tenancy, in which the Landlord declared that he personally served the Notice to the male Tenant on May 09, 2012 at 09:00 a.m. The male Tenant signed the Proof of Service to acknowledge service of the Notice.

In the Application for Dispute Resolution the Landlord declared that the 10 Day Notice to End Tenancy for Unpaid Rent was personally served on May 09, 2012.

In the Application for Dispute Resolution, the Landlord declared that the Tenants did not pay rent for “part of” November of 2011, February of 2012, March of 2012, or April of 2012, and that the Tenant paid \$500.00 in rent for May of 2012.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenants entered into a tenancy agreement that required the Tenants to pay monthly rent of \$780.00 by the first day of each month.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant had not paid rent in an undisclosed amount for November of 2011, \$780.00 from February of 2012, \$780.00 from March of 2012, \$780.00 from April of 2012, and \$280.00 from May of 2012 by the time the Landlord filed this Application for Dispute Resolution. I have no evidence to show that the Tenant paid the outstanding rent since the Application for Dispute Resolution was filed and therefore I find that the Tenants owe rent in the amount of \$2,620.00 for the period between February 01, 2012 and May 31, 2012. As the Tenant is required to pay rent

when it is due, I find that the Tenant must pay \$2,620.00 in outstanding rent to the Landlord.

I dismiss the Landlord's claim for unpaid rent from November of 2011, as the Landlord has not declared what rent is outstanding for that month.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that a 10 Day Notice to End Tenancy was personally served to the male Tenant on May 09, 2012.

I have no evidence to show that the Tenants filed an Application for Dispute Resolution seeking to set aside the Notice to End Tenancy. Pursuant to section 46(5) of the *Act*, I therefore find that the Tenants accepted that the tenancy ended on May 20, 2012.

Conclusion

I find that the Landlord is entitled to an Order of Possession effective two days after service on the Tenants. This Order may be served on the Tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$2,620.00, for unpaid rent and I grant the Landlord a monetary Order in that amount. This Order may be served on the Tenants, filed with the Province of British Columbia Small Claims 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: May 28, 2012.

Residential Tenancy Branch