



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 Landlords for an Order of Possession and a Monetary Order for unpaid rent.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 14, 2012, the Landlords served the Tenants with the Notice of Direct Request Proceeding via registered mail. According to the Canada Post online tracking system, the Tenants received the Notices on May 15, 2012. Based on the evidence and written submissions of the Landlords, I find that the Tenants were served as required by s. 89 of the Act with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

The issues to be decided are whether the Landlords are 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 Landlords submitted the following documentary evidence:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenants;
- A copy of a residential tenancy agreement which was signed by the parties on February 24, 2012 for a month-to-month tenancy beginning March 1, 2012 for the monthly rent of \$1,000.00 due in advance on the 1st calendar day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 2, 2012 with an effective vacancy date of May 8, 2012 due to \$1,000.00 in unpaid rent.

The evidence filed by the Landlords indicates that the Tenants failed to pay the rent owed for the month of May, 2012 and that the Tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent on May 2, 2012 when it was posted to the rental unit

door. The Notice states that the Tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The Tenants 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 Tenants have been served with the 10 Day Notice to End Tenancy as declared by the Landlords. Pursuant to s. 90 of the Act, the Tenants are deemed to have received the 10 Day Notice 3 days after it was posted or on May 5, 2012. Consequently, the effective date of the Notice is amended pursuant to s. 53 of the Act to May 10, 2012. I accept the evidence before me that the Tenants have not paid the outstanding rent of \$1,000.00 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 the effective date of the Notice.

Conclusion

I find pursuant to s. 55(2)(b) of the Act that the Landlords are entitled to an Order of Possession effective **two days after service on the Tenants**. I also find pursuant to s. 67 of the Act that the Landlords are entitled to a Monetary Order for unpaid rent for May 2012 in the amount of \$1,000.00. The Orders must be served on the Tenants; the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 22, 2012.

Residential Tenancy Branch