



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory matter was conducted 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 for the rental unit due to unpaid rent and for a monetary order for unpaid rent.

The landlord submitted a signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on June 14, 2012, the landlord served tenant CK with the Notice of Direct Request Proceeding via registered mail and on June 13, 2012, the landlord served tenant CK with the Notice of Direct Request Proceeding via registered mail. However the landlord's evidence, the receipt of the registered mail, shows both registered mail envelopes being sent on June 13, 2012.

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

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent and for a monetary order for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proofs 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 November 3, 2011 for the monthly rent of \$945.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") which was issued on, May 16, 2012, with an effective vacancy date of May 26, 2012, due to \$1010.00 in unpaid rent; and

- A tenant ledger sheet.

Documentary evidence filed by the landlord indicates that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent via personal delivery on May 16, 2012, in the presence of a witness.

The Notice states that the tenants had five days to pay the rent in full or apply for dispute resolution or the tenancy would end.

The application of the landlord indicated that the tenants failed to pay rent for May and June 2012, and requested a monetary order in the amount of \$1010.00, the amount listed on the Notice.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with a notice to end tenancy as declared by the landlord.

I accept the evidence before me that the tenants failed to pay all rent due within the 5 days granted under section 46 (4) of the *Act* and did not apply to dispute the Notice.

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. Therefore, I find that the landlord is entitled to an order of possession for the rental unit.

As to the landlord's request for a monetary order, the landlord applied for a monetary order for \$1010.00, the amount listed on the Notice of May 16, stating that the tenant failed to pay rent for May and June. However, the landlord's tenant ledger sheet shows a payment by the tenants of \$400.00 on May 24, 2012.

I therefore find that the landlord has not submitted sufficiently clear evidence to support the amount of their monetary claim.

I therefore find that the portion of the landlord's application for a monetary order does not meet the requirements for the Direct Request process.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenants.

The order of possession is enclosed with the landlord's Decision. This order is a legally binding, final Order, and may be filed in the Supreme Court of British Columbia should the tenants fail to comply with this order of possession.

The portion of the landlord's application for a monetary order is dismissed with leave to re-apply.

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: June 20, 2012.

Residential Tenancy Branch