



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 Proof of Service of the Notice of Direct Request Proceeding which declares that on June 15, 2012, the landlord served the tenant with the Notice of Direct Request Proceeding via posting on the door.

Section 90 of the Act deems the tenant served on June 18, 2012.

Based on the written submissions of the landlord, I find that the tenant has 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 Proof of Service of the Notice of Direct Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on March 2, 2012 for the monthly rent of \$875.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") which was issued on, June 6, 2012, with an effective vacancy date of June 19, 2012, due to \$875.00 in unpaid rent; and

- A tenant ledger sheet.

Documentary evidence filed by the landlord indicates that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent via posting on the door on June 6, 2012, in the presence of a witness.

The Notice states that the tenant 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 tenant failed to pay rent for June 2012, and requested a monetary order in the amount of \$875.00, the amount listed on the Notice.

Analysis

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

I accept the evidence before me that the tenant 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 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. 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, section 89(1) of the *Act* states that the applicant, the landlord in this case, is required to serve the Notice of Hearing and Application via personal delivery or registered mail. Additionally, the documents provided the landlord by the Residential Tenancy Branch ("RTB"), the Proof of Service of the Notice of Direct Request instruct the applicant not to use posting on the door as a method of service if requesting a monetary order.

I therefore find that the landlord has not served the respondent/tenant the Notice of Hearing in a manner sufficient under the *Act* to receive a monetary order.

Conclusion

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

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 tenant 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