



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 *Residential Tenancy Act* (the Act). The landlord applied 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 August 23, 2012, the landlord served the tenant with notice of the direct request proceeding by posting the notice on the rental unit door. Section 90 of the Act states that a document is deemed to have been served three days after posting.

Based on the landlord's written submissions, I find that the tenant has been served with the Direct Request Proceeding documents.

An application for a monetary order may not be served by posting. I therefore dismiss the monetary portion of the landlord's application with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The Landlord submitted the following evidentiary material:

- a copy of a residential tenancy agreement, signed by the tenant on January 05, 2012, indicating a monthly rent of \$1,000.00 is due on the first of each month;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on August 09, 2012, with an effective vacancy date of August 23, 2012, for failure to pay rent in the amount of \$209.12 that was due on August 01, 2012;

- a copy of the Proof of Service of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, showing that the 10 Day Notice to End Tenancy for Unpaid Rent was served on the tenant by posting the notice, in the presence of a witness on August 09, 2012; and
- a copy of the Landlord's Application for Dispute Resolution, filed August 23, 2012, indicating that the tenant had still not paid the outstanding rent.

Analysis

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

I accept the evidence before me that the tenant has failed to pay the rent owed within the five days granted under section 46(4) of the Act. 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.

I therefore find that the landlord is entitled to an order of possession.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme 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: August 29, 2012.

Residential Tenancy Branch