



Dispute Resolution Services

Page: 1

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 Section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlord 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 16, 2012 the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail. A copy of the registered mail receipt and tracking number was provided in evidence.

Service in this manner is deemed to be effective 5 days after mailing the documents. Based on the written submissions of the Landlord, I find the Tenant was duly served with the Dispute Resolution Direct Request Proceeding documents on August 21, 2012.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent from July and August, 2012?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A Proof of Service of the Notice of Direct Proceeding;
- A copy of a residential tenancy agreement which was signed by the parties on June 12, 2012, indicating \$875.00 per month rent due on the first of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on August 2, 2012, for \$1,750.00 in unpaid rent; and

- A Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it on his door, on August 2, 2012 at 9:30 a.m. The Proof of Service document was signed by a witness. Service in this manner is deemed to be effective 3 days after posting the notice, August 5, 2012.

The Notice states that the Tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The Tenant did not apply to dispute the Notice to End Tenancy within five days.

Analysis

Order of Possession - 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 August 15, 2012. Pursuant to the provisions of Section 53 of the Act, an incorrect effective date on a Notice to End Tenancy automatically corrects to the earliest date that complies with Section 46 of the Act. Therefore, I find that the Tenant is overholding and I hereby provide the Landlord an Order of Possession **effective 2 days after service of the Order upon the Tenant.**

Monetary Order – I accept the Landlord’s written submissions that the Tenant has not paid rent in the following amounts:

- | | |
|-----------------|-----------------|
| • July, 2012: | \$875.00 |
| • August, 2012: | <u>\$875.00</u> |
| Total | \$1,750.00 |

I hereby provide the Landlord a Monetary Order against the Tenant in the amount of **\$1,750.00** for unpaid rent.

Conclusion

I hereby provide the Landlord an Order of Possession effective **two days after service on the Tenant.** This Order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The Landlord’s copy of this Decision will be accompanied by a Monetary Order for **\$1,750.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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 22, 2012.

Residential Tenancy Branch