



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 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 September 20, 2012 the Landlord served the Tenants with the Notice of Direct Request Proceeding via registered mail. Section 90 of the Residential Tenancy Act deems a document delivered in that manner to have been received (or served) on the fifth day after it was sent.

Based on the evidence and written submissions of the Landlord, 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 Landlord is 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 Landlord 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 August 31, 2012 for a fixed term tenancy beginning August 1, 2012 and expiring on August 31, 2012 with a monthly rent of \$1,500.00 due in advance on the 1st day of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on September 4, 2012 with an effective vacancy date of September 4, 2012 due to \$1,500.00 in unpaid rent.

The evidence filed by the Landlord indicates that the Tenants failed to pay the rent owed for the month of September 2012 and that the Tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent in person on September 4, 2012. 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 Notice to End Tenancy as declared by the Landlord. The Notice was received by the Tenants on September 4, 2012, and the effective date of the Notice is corrected pursuant to s. 53 of the Act to read, "September 14, 2012."

I accept the evidence before me that the Tenants failed to pay the rent owed for September 2012 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

Based on the foregoing, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect **two days after service on the Tenants**. This Order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I also find pursuant to s. 67 of the Act that the Landlord is entitled to a Monetary Order for \$1,500.00 representing the unpaid rent for September 2012. This Order may be filed in the Provincial (Small Claims) 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: September 26, 2012.

Residential Tenancy Branch