



Dispute Resolution Services

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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 two signed Proofs of Service of the Notice of Direct Request Proceeding which declare that on September 7, 2012 the Landlord served each of the Tenants with the Notice of Direct Request Proceeding, via registered mail. Copies of the registered mail receipts and tracking numbers were 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 Tenants were duly served with the Dispute Resolution Direct Request Proceeding documents on September 12, 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 for July and August, 2012?

Background and Evidence

The Landlords submitted the following evidentiary material:

- Proof of Service of the Notice of Direct Proceeding on each of the Tenants;
- A copy of a residential tenancy agreement which was signed by the parties on June 17, 2012, indicating \$3,500.00 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 27, 2012, for \$7,000.00 in unpaid rent;

- Copies of two dishonoured cheques, each in the amount of \$3,500.00, dated July 1 and August 1, 2012; and
- A Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent.

Documentary evidence filed by the Landlords indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it on the Tenant's door, on August 27, 2012 at 5:00 p.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 30, 2012. The evidence also indicates that the Landlord mailed the Tenants the Notice to End Tenancy for Unpaid Rent, by registered mail, on August 27, 2012. Copies of the registered mail receipts were also provided in evidence.

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

Order of Possession - 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 September 9, 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 Tenants are overholding and I hereby provide the Landlord an Order of Possession **effective 2 days after service of the Order upon the Tenants.**

Monetary Order – I accept the Landlord's written submissions that the Tenants have not paid rent for the months of July and August, 2012. I hereby provide the Landlord a Monetary Order against the Tenants in the amount of **\$7,000.00** for unpaid rent.

Conclusion

I hereby provide the Landlord an Order of Possession effective **two days after service on the Tenants.** 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 **\$7,000.00** for service upon the Tenants. 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: September 14, 2012.

Residential Tenancy Branch