



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 Landlords for an Order of Possession and a Monetary Order for unpaid rent.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 17, 2012 the Landlords served the Tenant with the Notice of Direct Request Proceeding in person. Based on the evidence and written submissions of the Landlords, I find that the Tenant was 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 Landlords are 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 Landlords submitted the following documentary evidence:

- 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 October 25, 2011 for a 6 month fixed term tenancy beginning November 1, 2011 (and continuing thereafter on a month to month basis) for the monthly rent of \$725.00 due in advance on 1st day of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which was issued on November 2, 2012 with an effective vacancy date of November 15, 2012 due to \$720.00 in unpaid rent.

The evidence filed by the Landlords indicates that the Tenant failed to pay the rent owed for the month of November 2012 and that the Tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on November 2, 2012 when it was posted to the rental unit door. 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

I have reviewed all of the documentary evidence and accept that the Tenant has been served with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities as declared by the Landlords. I find that the Notice was served on the Tenant on November 2, 2012 when it was posted to the rental unit door. Pursuant to s. 90 of the Act, the Notice was deemed to have been received by the Tenant three days later or on November 5, 2012. Consequently, the effective date of the 10 Day Notice to End Tenancy is November 15, 2012. I accept the evidence before me that the Tenant has failed to pay the rent owed for November 2012 in full within the 5 days granted under section 46 (4) of the Act. 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.

Conclusion

I find pursuant to s. 55(2)(b) of the Act that the Landlords are entitled to an Order of Possession effective **two days after service on the Tenant**. I also find pursuant to s. 67 of the Act that the Landlords are entitled to a Monetary Order in the amount of \$720.00 representing the unpaid rent for November 2012. A copy of the Orders must be served on the Tenant. The Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: November 26, 2012.

Residential Tenancy Branch