



Dispute Resolution Services

Page: 1

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 November 3, 2012 the landlord served the tenants with notice of the direct request proceeding by registered mail. Section 90 of the Act states that a document is deemed to have been served five days after mailing.

Based on the landlord's written submissions, I find that the tenants are deemed served with the Direct Request Proceeding documents on November 8, 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?

Background and Evidence

The Landlord submitted the following evidentiary material:

- a copy of a residential tenancy agreement, signed by the tenants and the landlord on September 9, 2012, indicating a monthly rent of \$2,000 due on the first of each month;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on October 26, 2012, with an effective vacancy date of November 5, 2012, for failure to pay rent in the amount of \$2,000 that was due on October 1, 2012;
- a copy of the Proof of Service of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, showing that the tenant was personally served the 10 Day Notice to End Tenancy for Unpaid Rent in the presence of a witness on October 26, 2012; and

- a copy of the Landlord's Application for Dispute Resolution, filed November 1, 2012, in which the landlord indicated that the tenants had still failed to pay the \$2,000 in outstanding rent for October 2012.

Analysis

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

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

I therefore find that the landlord is entitled to an order of possession and a monetary order for unpaid rent in the amount of \$2,000.

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 tenants 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.

As for the monetary order, I grant the landlord an order under section 67 for the balance due of \$2,000. This order may be filed in the Small Claims Court 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: November 9, 2012.

Residential Tenancy Branch