



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 sections 55(4) and 74(2) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession and a monetary Order.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 17, 2013 the Landlord served each Respondent with the Notice of Direct Request Proceeding by registered mail. The Landlord submitted copies of Canada Post receipts, with tracking numbers, which corroborates that two packages were mailed to the Respondents at the rental unit. Based on the written submissions of the Landlord, I find that each Respondent has been served with the Dispute Resolution Direct Request Proceeding document. Section 90 of the *Act* stipulates that a document that is served by mail is deemed received on the fifth day after it is mailed which, in these circumstances, is January 22, 2013.

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 55 and 67 of the *Act*.

Background and Evidence

I have reviewed the following evidence that was submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each Tenant.
- A copy of a residential tenancy agreement which appears to be signed by the Tenant with the initials "A.M.", which indicates that the tenancy began on October 28, 2011 and that the rent of \$1,250.00 rent is due by the first day of each month.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was signed by the Landlord and is dated January 03, 2013, which declares that the Tenant must vacate the rental unit by January 15, 2013 as the Tenant has failed to pay rent in the amount of \$600.00 that was due by January 01, 2013. The Notice declares

that the tenancy will end unless the Tenants pay the rent within five days of receiving the Notice or submit an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice.

- A copy of a signed Proof of Service of the 10 Day Notice to End Tenancy, in which the Landlord declared that the Notice was mailed to the Tenant on January 03, 2013.
- A copy of a Canada Post receipt that indicates a package was mailed to the Tenant with the initials "A.M." at the rental unit on January 03, 2013.

In the Application for Dispute Resolution the Landlord declared that the 10 Day Notice to End Tenancy for Unpaid Rent was mailed on January 03, 2013 and that the Tenant owes \$600.00 in rent.

Analysis

Based on the documentary evidence, I find that the Tenant with the initials "A.M." entered into a tenancy agreement for the rental unit that required the Tenant to pay monthly rent of \$1,250.00 by the first day of each month; that the \$600.00 of the rent for January of 2013 had not paid by the time the Landlord filed this Application for Dispute Resolution. I have no evidence to show that the Tenant paid the outstanding rent since the Application for Dispute Resolution was filed and therefore I find that the Tenant owes rent in the amount of \$600.00.

As the Respondent with the initials "D.M." has not signed the tenancy agreement submitted in evidence, I cannot conclude that she entered into a tenancy agreement for the rental unit. I therefore dismiss the Landlord's application for a monetary Order or an Order of Possession that names this individual.

On the basis of the documentary evidence, I find that a 10 Day Notice to End Tenancy was mailed to Tenant with the initials "A.M." on January 03, 2013.

I have no evidence to show that the Tenant filed an Application for Dispute Resolution seeking to set aside the Notice to End Tenancy. Pursuant to section 46(5) of the *Act*, I therefore find that the Tenant accepted that the tenancy ended ten days after they are deemed to have received the Notice that was mailed on January 03, 2013.

Conclusion

I find that the Landlord is entitled to an Order of Possession effective two days after service on the Tenant. This Order may be served on the Tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$600.00, for unpaid rent and I grant the Landlord a monetary Order in that amount. This Order may

be served on the Tenants, filed with the Province of British Columbia 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: January 24, 2013

Residential Tenancy Branch

