



Dispute Resolution Services

Page: 1

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 two signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on January 23, 2013 an agent for the Landlord personally served both Tenants with the Notice of Direct Request Proceeding at the rental unit. Based on the written submissions of the Landlord, I find each Tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession 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 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 both Tenants and which indicates that the tenancy began on March 01, 2012 and that the rent of \$1,380.00 is due by the first day of each month.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which appears to be signed by an agent for the Landlord and is dated December 28, 2012, which declares that the Tenants must vacate the rental unit by January 10, 2013 unless the Tenants pay the outstanding 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. The Notice declares that the Tenants owe rent, in the amount of \$3,810.00, that was due on December 01, 2012.

- A copy of a Proof of Service of the Ten Day Notice to End Tenancy for Unpaid Rent, which appears to be signed by an agent for the Landlord, which declares that the Notice was mailed to the rental unit, via registered mail, on December 28, 2012. Canada Post documentation was submitted that corroborates this declaration.

On the Application for Dispute Resolution, the Landlord indicates that the 10 Day Notice to End Tenancy was served by registered mail on December 28, 2012.

On the Application for Dispute Resolution, the Landlord declared that the Tenant owes \$1,050.00 in rent for October of 2012, \$1,380.00 in rent for November of 2012, and \$1,380.00 in rent for December of 2012.

Analysis

Based on the undisputed evidence, I find that the Tenants entered into a tenancy agreement that required the Tenants to pay monthly rent of \$1,380.00 and that the Tenants had not paid rent of \$3,810.00 for the period ending December 31, 2012. I have no evidence to show that the Tenants paid the outstanding rent since the Application for Dispute Resolution was filed and therefore I find that the Tenants owe rent in the amount of \$3,810.00.

Based on the undisputed evidence, I find that a 10 Day Notice to End Tenancy was mailed to the rental unit on December 28, 2012. Pursuant to section 90 of the *Act*, the Notice was deemed received on January 02, 2013.

I have no evidence to show that the Tenants 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 Tenants accepted that the tenancy ended ten days after the Tenants are deemed to have received the Notice.

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 Tenant, 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 \$3,810.00, for unpaid rent and I grant the Landlord a monetary Order in that amount. In the event that the Tenants do not comply with this Order, it 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 28, 2013

Residential Tenancy Branch

