



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NPR Limited Partnership
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR, MNR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 74(2)(b) 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 declare that on February 21, 2013 an agent for the Landlord served the female Tenant with the Notice of Direct Request Proceeding at the rental unit, via registered mail. The Landlord submitted a copy of a Canada Post Receipt, with a tracking number, which indicates that the Landlord mailed a package to the female at the rental unit. Based on the written submissions of the Landlord, I find the female Tenant has been served with the Direct Request Proceeding documents.

There is no evidence to show that the male Tenant was served with the Notice of Direct Request Proceeding.

The Landlord has applied for a monetary Order which requires that the Landlord serve each respondent with the Direct Request Proceeding documents as set out under section 89(1) of the *Act*. As there is no evidence the male Tenant has been served the Direct Request Proceeding documents in accordance with section 89(1) of the *Act*, I find that the Application for Dispute Resolution must be amended to include only the female Tenant who has been properly served with Direct Request Proceeding documents and that the application for a monetary Order naming the male Tenant must be dismissed without leave to reapply.

The Landlord has applied for an Order of Possession which requires that the Landlord serve each respondent with Direct Request Proceeding documents as set out under section 89(2) of the *Act*. Although section 89(2) of the *Act* permits these documents to be served by leaving a copy with an adult who apparently resides with the Tenant, I have no evidence that the female Tenant is an adult. I therefore cannot conclude that the male Tenant was served with the Direct Request Proceeding documents in this manner. I therefore find that the Application for Dispute Resolution must be amended to

include only the female Tenant and that the application for an Order of Possession naming the male Tenant must be dismissed without leave to reapply.

Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession for unpaid rent and a monetary Order for unpaid rent, pursuant to sections 55 and 67 of the *Residential Tenancy Act (Act)*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the female Tenant
- A copy of a residential tenancy agreement which appears to have been signed by both Tenants, which indicates that the tenancy began on July 01, 2012 and that the rent of \$886.55 is due by the first day of each month
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was signed by an Agent for the Landlord and is dated February 04, 2013, which declared that the Tenants must vacate the rental unit by February 14, 2013 as the Tenants failed to pay rent in the amount of \$386.55 that was due on February 01, 2013. The Notice states that the tenancy will end unless the Tenant pays the rent or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice.
- A copy of the signed Proof of Service of the 10 Day Notice to End Tenancy in which an agent for the Landlord declared that she posted the Notice to End Tenancy at the rental unit on February 04, 2013, in the presence of an employee, who also signed the Proof of Service.

In the Application for Dispute Resolution the Landlord declared that the 10 Day Notice to End Tenancy for Unpaid Rent was posted on February 04, 2013 and that the Tenant still owes \$386.55 in rent for February.

Analysis

Based on the undisputed evidence, I find that a 10 Day Notice to End Tenancy was posted at the rental unit on February 04, 2013 and that the Tenants had not paid \$386.55 of the rent due for February by the time the Landlord filed the Application for Dispute Resolution. I have no evidence to show that the Tenants paid the outstanding rent since the Landlord filed the Application for Dispute Resolution, and therefore I find that the Tenants owe rent in the amount of \$386.55.

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 has accepted that the tenancy ended ten days after the Tenant is deemed to have received the Notice that was posted on February 04, 2013.

Conclusion

I find that the Landlord is entitled to an Order of Possession that is effective two days after service on the Tenant. This Order may be served on the female 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 \$386.55 and I grant the Landlord a monetary Order in this amount. In the event that the Tenant does not comply with this Order, it may be served on the female Tenant, 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: February 28, 2013

Residential Tenancy Branch

