



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 section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession for unpaid rent 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 January 30, 2013, at 4:36 p.m. the Landlord personally served the Tenant with the Notice of Direct Request Proceeding. Based on the written submissions of the Landlord, I find that the Tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- 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 all parties for a fixed term tenancy that began on September 7, 2012, and is set to end on August 30, 2013, for the monthly rent of \$1,100.00 which is payable monthly; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, January 20, 2013, with an effective vacancy date of February 3, 2013, due to \$4,900.00 in unpaid rent; and
- A statement listing the accumulated unpaid rent being as follows: \$500.00 from September 2012 plus \$1,100.00 for each of the following four months from October 2012 to January 2013 (\$500.00 + 4 x \$1,100.00).

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on January 20, 2013, at 11:03 a.m. when it was posted to the Tenant's door in the presence of a witness.

Analysis

Order of Possession - I have reviewed all documentary evidence and accept that the Tenant has been served with notice to end tenancy as declared by the Landlord. The notice is deemed to have been received by the Tenant on January 23, 2013, the third day after it was posted to the Tenant's door, and the effective date of the notice is February 2, 2013, pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenant has failed to pay the rent owed 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 and I hereby grant the Landlord an Order of Possession.

Monetary Order – The evidence supports that the Tenant has failed to pay rent in accordance with section 26 of the *Act* which stipulates that a tenant must pay rent when it is due under the tenancy agreement. The Tenant has an unpaid balance owing of \$4,900.00 accumulated between September 2012 and January 2013. As per the aforementioned I find the Landlord has met the burden of proof and I award him a Monetary Order for **\$4,900.00**.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served upon the Tenant.

The Landlord has been awarded a Monetary Order in the amount of **\$4,900.00**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be 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 06, 2013

Residential Tenancy Branch

