



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Carrington Resorts Ltd.
and [tenant name suppressed to protect privacy]

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"), 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 February 15, 2013 the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit address. The landlord provided a Canada Post receipt and tracking number as evidence of service to each tenant. Section 90 of the Act determines that a document is deemed to have been served on the 5th day after mailing.

Based on the written submissions of the landlord, I find that each tenant has been served with the Direct Request Proceeding documents effective February 20, 2013.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each tenant;
- A copy of a residential tenancy agreement which was signed by the parties on April 10, 2012, indicating a monthly rent of \$1,440.00 due on the 1st day of the month;

- A Schedule A signed on April 10, 2012 by one of the tenants; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 4, 2013 with a stated effective vacancy date of February 14, 2013, for \$1,440.00 in unpaid February 2013 rent.

Documentary evidence filed by the landlord indicates that the tenants have failed to pay rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting to the door on February 4, 2013 at 3 p.m. with the maintenance person present as a witness.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end.

The landlord has claimed compensation in the sum of \$1,440.00 for unpaid February 2013 rent owed.

Analysis

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

The Notice is deemed to have been received by the tenants on February 7, 2013; the 3rd day after posting.

Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to February 17, 2013.

I accept the evidence before me that the tenants have failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*. There was no evidence before me that the tenants disputed the Notice.

Therefore, in the absence of evidence that rent was paid within 5 days or that the tenants disputed the Notice, 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; February 17, 2013.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid February 2013 rent in the sum of \$1,440.00.

Based on these determinations I grant the landlord a monetary Order in the sum of \$1,440.00. 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.

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenants**. This Order may be served on the tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an Order of possession and a monetary Order for unpaid rent.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 21, 2013

Residential Tenancy Branch

