



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 in which the Landlord declared that on January 29, 2013 the Landlord personally served the Tenant with the Notice of Direct Request Proceeding at the rental unit. The Proof of Service was witnessed by a third party. Based on the written submissions of the Landlord, I find the Tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord 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 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 that appears to be signed by the Tenant, which indicates that the tenancy began on November 01, 2010 and that the rent of \$800.00 is due by the first day of the month
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which appears to be signed by the Landlord and is dated January 22, 2013, which declares that the Tenant must vacate the rental unit by January 31, 2013 unless the Tenant pays the rent within five days of receiving the Notice or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice. The Notice indicates that the Tenant owes rent, in the amount of \$300.00, that was due on January 01, 2013.

- A copy of a signed Proof of Service of the 10 Day Notice to End Tenancy, in which the Landlord declared that the Landlord personally served the Tenant with the Notice on January 22, 2013, in the presence of a third party, who also signed the Proof of Service.

On the Application for Dispute Resolution, the Landlord declared that the 10 Day Notice to End Tenancy for Unpaid Rent was personally served on January 22, 2013 and that the Tenant has paid \$500.00 in rent for January.

Analysis

Based on the undisputed evidence, I find that the Tenant entered into a tenancy agreement, in which the Tenant agreed to pay monthly rent of \$800.00 by the first day of each month and that the Tenant had only paid \$500.00 of the rent for January of 2013 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 \$300.00 for January of 2013.

Based on the undisputed evidence, I find that the Landlord personally served the Tenant with a Notice to End Tenancy on January 22, 2013. I have no evidence to show that the Tenant filed an Application 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 received the Notice on January 22, 2013. On this basis, I find that the Landlord is entitled to an Order of Possession.

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 \$300.00, for unpaid rent 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 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 20, 2013

Residential Tenancy Branch