



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 matter proceeded by way of an *ex parte* 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 based on unpaid rent and a monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 21, 2013, the landlord sent both tenants the Notice of Direct Request Proceeding by registered mail. The landlord provided copies of both Canada Post Tracking Numbers to confirm these registered mailings.

Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that both tenants have been deemed duly served with the Direct Request Proceeding documents on February 26, 2013, the fifth day after the mailings.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- Copies of the Proof of Service of the Notices of Direct Proceeding served to the tenants;
- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on January 10, 2013, indicating a monthly rent of \$895.00 due on the 1st day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) handed to the tenants with a stated effective vacancy date of February 14, 2013, for \$895.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the tenants failed to pay all outstanding rent was served by handing the 10 Day Notice to them at 4:43 p.m. on February 4, 2013.

The Notice states that the tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

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.

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*.

Based on the foregoing, 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 10 Day Notice, February 14, 2013.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order of \$895.00 for unpaid rent owing from February 2013.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of the Order** on the Tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I find that the landlord is entitled to a monetary Order in the amount of \$895.00 for rent owed for February 2013. The landlord is provided with these Orders in the above terms and the tenant(s) must be served with these Orders as soon as possible. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: March 04, 2013

Residential Tenancy Branch

