



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0895338 BC LTD
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes OPR, MNR

Introduction

This matter proceeded 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 landlords for an Order of Possession and a monetary order for unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 9, 2013, the landlords served the tenant (SL) with the Notice of Direct Request Proceeding by personal service. Based on the written submissions of the landlords, I find that the tenant (SL) has been duly served with the Direct Request Proceeding documents.

Preliminary Issue

In this case, the landlords have not submitted a signed Proof of Service of the Notice of Direct Request on the co-tenant (AS). As a result, the landlord application for a monetary order against the co-tenant (AS) is dismissed with leave to reapply.

Issue(s) to be Decided

The issues to be decided are whether the landlords are entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent, pursuant to sections 46, 55 and 67 of the Act.

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant (SL);

- A copy of a residential tenancy agreement which was signed by the parties, indicating a monthly rent of \$850.00 due on the first day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on April 2, 2013 with a stated effective vacancy date of April 2, 2013 for \$558.33 in unpaid rent.

Documentary evidence filed by the landlords indicates that the tenants had failed to pay all rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by personal delivery, on April 2, 2013, which was witness, which would correct the above-mentioned effective date to April 12, 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 landlords.

I accept the evidence before me that the tenants have failed to pay all 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 corrected effective date of the Notice. Therefore, I find that the landlords are entitled to an Order of possession.

As the tenant (AS) has not been served with the Notice of Direct Request, I decline to award a monetary order to landlords with respect to this tenant. The landlords are at liberty to reapply.

As the tenant (SL) was served with the Notice of Direct Request, I find the landlords are entitled to a monetary order for unpaid rent.

Conclusion

I find that the landlords are entitled to an Order of Possession effective **two days after service** on the tenants and the Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlords are entitled to monetary order for unpaid rent against the tenant (SL) pursuant section 67 in the amount of **\$558.33** comprised of rent owed for April 2013. This Order must be served on the tenant and may be filed in the Provincial Court (Small Claims) 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: April 16, 2013

Residential Tenancy Branch