



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Central Valley Property Management Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR

Introduction:

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent and a monetary Order for unpaid rent. The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the rental unit, via registered mail, on April 30, 2013. She stated that the documents were sent in one envelope that was addressed to both parties. The Landlord submitted Canada Post documentation that corroborates this statement.

Preliminary Matter:

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to tenants is to notify them that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the landlord. When a landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that each Respondent was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the person;
- (c) by sending a copy by registered mail to the address at which the person resides;
- (d) by sending a copy by registered mail to a forwarding address provided by the tenant;
or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

In these circumstances, the Landlord mailed one package to the rental unit, which was addressed to both Tenants. As neither Tenant attended the hearing and there is no evidence that either of the Tenants received the package, I cannot conclude which of

the Tenants was properly served with notice of the application for a monetary Order. I therefore dismiss the application for a monetary Order, with leave to reapply on that specific issue.

When a landlord files an Application for Dispute Resolution in which the landlord has applied for an Order of Possession, the landlord has the burden of proving that each Respondent was served with the Application for Dispute Resolution in compliance with section 89(2) of the *Act*.

Section 89(2) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides; or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

Although I cannot determine which of the two Tenants was served with the Application for Dispute Resolution and the Notice of Hearing by registered mail, I am satisfied that at least one of them was served in accordance with section 89(2)(b) of the *Act*. I am satisfied that the other Tenant was served with the Application for Dispute Resolution and the Notice of Hearing in accordance with section 89(2)(c) of the *Act*. I based this determination on the Agent for the Landlord's statement that both Tenants live at the rental unit and that they are both adults.

As both Tenants have been properly served with the Application for Dispute Resolution and the Notice of Hearing pursuant to section 89(2) of the *Act*, I find it is appropriate to consider the Landlord's application for an Order of Possession.

Issue(s) to be Decided:

Is the Landlord entitled to an Order of Possession?

Background and Evidence:

The Agent for the Landlord stated that this tenancy began on February 15, 2013; that the Tenant is required to pay monthly rent of \$725.00 by the first day of each month; and that the Tenant has not paid rent for April or May of 2013.

The Agent for the Landlord stated that on April 12, 2013 she personally served the Ten Day Notice to End Tenancy for Unpaid Rent to the female Tenant, which had an

effective date of April 25, 2013. The Notice declared that the Tenant owed \$725.00 in rent that was due on April 01, 2013.

Analysis

Based on the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$725.00 by the first day of each month, and that rent was not paid for April or May of 2013.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 46 of the *Act*. Based on the undisputed evidence, I find that on April 12, 2013 the female Tenant was personally served with a Ten Day Notice to End Tenancy that directed the Tenant to vacate the rental unit by April 25, 2013, pursuant to section 46 of the *Act*.

Section 46 of the *Act* stipulates that a tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice to End Tenancy if the tenant does not either pay the outstanding rent or file an Application for Dispute Resolution to dispute the Notice within five days of receiving the Notice. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy has ended. On this basis I find that the Landlord is entitled to an Order of Possession.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon 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.

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: May 28, 2013

Residential Tenancy Branch