



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 deals with an Application for Dispute Resolution by the Landlord for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 13, 2013, the Landlord served the Tenant with Notice of Direct Request Proceeding by registered mail. Based on the written submissions of the Landlord, I find that the Tenant has been duly served with the Direct Request Proceeding Documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to a monetary order 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;
- A copy of a residential tenancy agreement which was signed by the Parties on July 27, 2009, indicating a monthly rent of \$945.00 due on the first day of the month;

- Copies of rent increases indicating that the rent as of September 2011 increased to \$995.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 2, 2013 with a stated effective vacancy date of May 13, 2013, for \$2,235.00 in unpaid rent that was due on March 1, 2013;
- A copy of a receipt dated March 1, 2013 indicating that rent of \$995.00 for March 2013 was paid;
- Copies of receipts dated April 4, 12 and 15, 2013 indicating a total of \$850.00 was also received for March 2013 rent; and
- A copy of the Proof of Service of the Notice to End Tenancy showing that the Landlord personally served the Notice to End tenancy to the Tenant on May 2, 2013.

The Notice states that the Tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end from the service date. The Tenant 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 Tenant has been served with the Notice to End Tenancy as declared by the Landlord. The Tenant has not disputed the Notice to End Tenancy.

Based on the foregoing, I find that the Tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Therefore, I find that the Landlord is entitled to an Order of Possession.

Given the receipts indicating that rent was paid for March 2013, I find that amount stated as owing for March 1, 2013 as indicated in the Notice to End Tenancy is in conflict with the evidence of rent being paid on March 1, 2013. Given this conflict, I dismiss this part of the application with leave to reapply.

Conclusion

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

The claim for unpaid rent is dismissed with leave to reapply.

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 21, 2013

Residential Tenancy Branch

