



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the Act). The landlord applied 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 28, 2013 the landlord served the tenants with notice of the direct request proceeding by registered mail. Section 90 of the Act states that a document is deemed to have been served five days after mailing.

Based on the landlord's written submissions, I find that the tenants have been 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 a residential tenancy agreement, signed by the tenants and the landlord on February 26, 2013, indicating a monthly rent of \$990 due on the last day of each month preceding the rental period;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on May 1, 2013, with an effective vacancy date of May 11, 2013, for failure to pay rent in the amount of \$990 that was due on May 1, 2013;

- a copy of the Proof of Service of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, showing that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by registered mail on May 2, 2013; and
- a copy of the Landlord's Application for Dispute Resolution, filed May 27, 2013, in which the landlord indicated that the tenants had still not paid the rent for May 2013.

Analysis

I have reviewed all documentary evidence and I accept that the tenant has been served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on May 7, 2013.

The tenancy agreement indicates rent is due on the last day of the month preceding the rental period, and I therefore find that the landlord merely made a clerical error on the notice to end tenancy where he indicated that rent was due on May 1, 2013. I therefore amend the notice to indicate that the rent for May 2103 was due on April 30, 2013.

I accept the evidence before me that the tenant has failed to pay the rent owed within the five days granted under section 46(4) of the Act. 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.

I therefore find that the landlord is entitled to an order of possession and a monetary order for unpaid rent in the amount of \$990.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. The tenant must be served with the order of possession. 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.

As for the monetary order, I grant the landlord an order under section 67 for the balance due of \$990. This order may be filed in the 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: June 4, 2013

Residential Tenancy Branch

