



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Unique Accommodations
and [tenant name suppressed to protect privacy]

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"), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 12, 2013 the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit address. The landlord provided a Canada Post receipt and tracking number as evidence of service to each tenant.

A proof of service document, signed by the landlord, was supplied as evidence, confirming registered mail had been sent.

Section 90 of the Act determines that a document is deemed to have been served on the 5th day after mailing.

Based on the written submissions of the landlord, I find that each tenant been served with the Direct Request Proceeding documents, effective July 17, 2013.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation 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 for each tenant;

- A copy of a residential tenancy agreement which was signed by the parties on January 29, 2013, indicating a monthly rent of \$3,700.00 due on or before the 1st day of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on July 2, 2013 with a stated effective vacancy date of July 15, 2013, for \$3,700.00 in unpaid rent due July 1, 2013.

Documentary evidence filed by the landlord indicates that the tenants have failed to pay rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting to the tenant's door on July 2, 2013 at 3:45 p.m. An employee of the landlord's was present as a witness and signed a proof of service document supplied as evidence, confirming service occurred. The Act deems the tenants were served on the 3rd day after posting; July 5, 2013.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end.

The landlord has claimed compensation in the sum of \$3,700.00 for unpaid July 2013 rent and an Order of possession.

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.

The Notice is deemed to have been received by the tenants on July 5, 2013.

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*. There was no evidence before me that the tenants had disputed the Notice.

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 Notice; July 15, 2013.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid July rent in the sum of \$3,700.00.

Based on these determinations I grant the landlord a monetary Order in the sum of \$3,700.00. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenants**. This Order may be served on the tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an Order of possession and a monetary Order for unpaid rent.

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: July 18, 2013

Residential Tenancy Branch