



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"), 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 11, 2013 the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail to the rental unit address. The landlord provided a Canada Post receipt, tracking number as evidence of service for each tenant. 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 has 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 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 the tenants;
- A copy of a residential tenancy agreement which was signed by the landlord and tenants parties on May 9 and May 3, 2013, indicating a monthly rent of \$750.00 due on the 1st day of the 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 12, 2013, for \$750.00 in unpaid July 2013 rent.

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 placing the Notice through the mail slot of the rental unit on July 2, 2013 at 6:35 p.m.

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 requested a monetary Order in the sum of \$750.00 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 the 3rd day after it was placed in the mail slot; July 5, 2013.

Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to July 15, 2013. Therefore, I find that the Notice required the tenants to vacate the unit on July 15, 2013.

I accept the evidence before me that the tenants have failed to pay the July 2013 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 applied to dispute the Notice.

Based on the evidence before me, 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 2013 rent in the sum of \$750.00.

Based on these determinations I grant the landlord a monetary Order in the sum of \$750.00. 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 a monetary Order for unpaid rent and an Order of possession.

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 17, 2013

Residential Tenancy Branch

