



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory, ex parte matter was conducted by way of a 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 for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice").

The landlord submitted signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on July 20, 2013, the landlord served each tenant with the Notice of Direct Request Proceeding, including the landlord's application, via registered mail. Pursuant to section 90 of the Act, the documents were deemed served 5 days later.

Preliminary issue-The landlords' Proof of Service regarding tenant CM shows that the landlords used a different service address other than the one listed for CM on the landlords' application for dispute resolution, which is the dispute address. The landlords provided no explanation as to why they used a separate address for tenant CM and there was no proof that this was in fact her address.

Based on the written submissions of the landlords and due to the above, I find that tenant BB has been served with the Direct Request Proceeding documents as required under section 89 of the Act. I have excluded tenant CM as a listed respondent for purposes of any orders resulting from the landlords' application as the landlords did not provide sufficient proof of service of their hearing documents to this tenant.

Issue(s) to be Decided

Are the landlords entitled to an order of possession for the rental unit and a monetary order due to unpaid rent?

Background and Evidence

The landlords submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on July 28, 2012, indicating a monthly rent of \$1500 due on the first day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated on July 9, 2013, with a stated effective move out date of July 19, 2013, listing \$2450 in unpaid rent; and
- Proof that the tenants were served the Notice by leaving it in the tenants' mail box on July 9, 2013. Section 90 of the Act deems the tenants were served on July 12, 2013. Therefore the effective vacancy date, July 19, 2013, is automatically corrected to July 22, 2013.

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

I have no evidence before me that the tenants have filed an application for dispute resolution to dispute the Notice.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with a notice to end tenancy as declared by the landlord.

I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

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. Therefore, I find that the landlords are entitled to an order of possession for the rental unit and a monetary order for unpaid rent in the amount of \$2450.

Conclusion

I grant the landlords an order of possession for the rental unit effective two days after service on the tenant, which is enclosed with the landlord's Decision. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia

for enforcement as an order of that Court should the tenant fail to comply with the terms of the order of possession. The tenant is advised that costs of such enforcement may be recovered from the tenant.

I grant the landlords a monetary order in the amount of \$2450, pursuant to section 67 of the Act, comprised of rent owed, which is enclosed with the landlord's Decision. This order is a legally binding, final order, and should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement may be recovered from the tenants.

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* and is being mailed to both the applicant and the respondent.

Dated: July 26, 2013

Residential Tenancy Branch

