



Dispute Resolution Services

Page: 1

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 August 13, 2013 the landlord served the tenant with notice of the direct request proceeding by posting the notice on the rental unit door. Section 90 of the Act states that a document is deemed to have been served three days after posting. Based on the landlord's written submissions, I find that the tenant has been served with the Direct Request Proceeding documents.

An application for monetary compensation may not be served by posting. I therefore sever and dismiss with leave to reapply the portion of the landlord's application seeking a monetary order.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The Landlord submitted the following evidentiary material:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord on August 31, 2012, indicating a monthly rent of \$900 due on the first of each month;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on August 2, 2013, with an effective vacancy date of August 12, 2013, for failure to pay rent in the amount of \$3950 that was due on August 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 posting the notice to the rental unit door in the presence of a witness on August 2, 2013; and
- a copy of the Landlord's Application for Dispute Resolution, filed August 13, 2013, in which the landlord indicated that the tenant had failed to pay full rent several times.

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 August 5, 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 pursuant to the notice to end tenancy for unpaid rent.

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.

The monetary portion of the landlord's claim 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: August 19, 2013

Residential Tenancy Branch