



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bole Apartments Limited
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the "Act"), and deals with an Application for Dispute Resolution by the Landlord 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 14, 2013, the Landlord served the Tenant with Notice of Direct Request Proceeding by registered mail. Based on the written submissions of the Landlord, I find that the Tenant has been duly 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 the Proof of Service of the Notice of Direct Proceeding;
- A copy of a residential tenancy agreement which was signed by the Parties on January 1, 2004, indicating a tenancy start date of January 2, 2004 and a monthly rent of \$360.00 due on the first day of the month;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on August 2, 2013 with a stated effective vacancy date of August 15, 2013, for \$750.00 in unpaid rent; and
- A copy of the Proof of Service of the Notice to End Tenancy showing that the Landlord served the Notice to End tenancy to the Tenant on August 2, 2013 by posting the Notice on the Tenant's door.

The Notice states that the Tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end from the service date. The Tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

I have reviewed all documentary evidence and accept that the Tenant has been served with the Notice to End Tenancy as declared by the Landlord. I accept the evidence before me that the Tenant has failed to pay the August 2013 rent owed in full within the 5 days granted under section 46 (4) of the *Act*. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by August 15, 2013.

Based on the foregoing, 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. Therefore, I find that the Landlord is entitled to an Order of Possession. The Landlord did not file any financial records or notices of rent increase to substantiate the amount claimed in the application and the only evidence of the amount of rent payable is that contained in the tenancy agreement. As a result, I find that the Landlord has substantiated a loss of one month's rent at the amount supported by the evidence of \$360.00.

Conclusion

I **grant** an Order of Possession to the Landlord effective **two days after service** on the Tenant. 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.

I grant the Landlord an order under Section 67 of the Act for the amount of **\$360.00**. If necessary, 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: August 22, 2013

Residential Tenancy Branch

