



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kekinow Native Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR, MNR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 55(4) and 74(2) of the *Residential Tenancy Act (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 in which an agent for the Landlord declared that on June 21, 2013 the agent for the Landlord posted the Notice of Direct Request Proceeding at the rental unit. In the absence of evidence to the contrary, I accept that the Direct Request Proceeding documents were posted at the rental unit on June 21, 2013.

The Landlord has applied for a monetary Order which requires that the Landlord serve the respondent with Notice of Direct Request Proceeding pursuant to section 89(1) of the *Act*. Section 89(1) of the *Act* does not permit a Landlord to serve a Notice of Direct Request Proceeding by posting it on the Tenant's door. I therefore find that I am unable to consider the Landlord's application for a monetary Order. On this basis, I dismiss the Landlord's application for compensation for unpaid rent, with leave to reapply on that specific issue.

The Landlord has applied for an Order of Possession which requires that the Landlord serve the respondent with Notice of Direct Request Proceeding pursuant to section 89(2) of the *Act*. Section 89(2) of the *Act* does permit a Landlord to serve a Notice of Direct Request Proceeding by posting it on the Tenant's door. I therefore find that I am able to consider the Landlord's application for an Order of Possession.

Issue(s) to be Decided

The issue to be decided is whether the Landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*.

Background and Evidence

I have reviewed the following evidence submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant
- A copy of a residential tenancy agreement that appears to be signed by the Tenant, which indicates that the tenancy began on August 01, 2006; that the market rent for the unit was \$1,660.00 at the start of the tenancy; that the Tenant was required to pay subsidized rent of \$549.00 at the start of the tenancy; and that rent is due by the first day of each month.
- A copy of a rent ledger that indicates that the Tenant has been required to pay subsidized rent of \$421.00 during the latter portion of the tenancy and that he only paid \$257.00 of the rent that was due for June of 2013.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was signed by an agent for the Landlord and is dated June 06, 2013, which declares that the Tenant must vacate the rental unit by June 17, 2013 unless the Tenant pays the rent within five days of receiving the Notice or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice. The Notice indicates that the Tenant owes rent, in the amount of \$164.00, that was due on June 01, 2013.
- A copy of Proof of Service of the 10 Day Notice to End Tenancy, in which an agent for the Landlord declared that he posted the Notice on the Tenant's door on June 06, 2013, in the presence of another person, who also signed the Proof of Service.

On the Application for Dispute Resolution, the Landlord declared that the 10 Day Notice to End Tenancy for Unpaid Rent was posted on the door on June 06, 2013.

On the Application for Dispute Resolution the Landlord declared that the Tenant has not responded to the Notice to End Tenancy. The Landlord is seeking a monetary Order in the amount of \$164.00.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord and that the Tenant is currently required to pay subsidized rent of \$421.00 by the first day of each month.

On the basis of all of the undisputed evidence, I find that the Tenant had not paid all of the rent that is due for June of 2013 by the time the Landlord filed this Application for Dispute Resolution. I have no evidence to show that the Tenant paid the outstanding

rent since the Application for Dispute Resolution was filed and therefore I find that some rent is still outstanding.

On the basis of the undisputed evidence, I find that a 10 Day Notice to End Tenancy was posted at the rental unit on June 06, 2013. I have no evidence to show that the Tenant filed an Application for Dispute Resolution seeking to set aside the Notice to End Tenancy. Pursuant to section 46(5) of the *Act*, I therefore find that the Tenant has accepted that the tenancy ended ten days after the Tenant is deemed to have received the Notice that was posted on June 06, 2013. On this basis, I find that the Landlord is entitled to an Order of Possession.

Conclusion

I find that the Landlord is entitled to an Order of Possession effective two days after service on the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia 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: July 02, 2013

Residential Tenancy Branch

