



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an order of possession.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 17, 2013, the landlord served the tenant in-person with the Notice of Direct Request Proceeding.

Section 90 of the Act provides that a document served in this manner is deemed to have been received on that same date. Based on the written submissions of the landlord, I find that the tenant has been duly served with the Direct Request Proceeding documents.

Issues 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 the Proof of Service of the Notice of Direct Request Proceeding;
- A copy of the residential tenancy agreement which was signed by the parties on March 1, 2011, indicating that the tenant is obligated to pay \$1,200.00 in rent each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on August 13, 2013, with a stated effective vacancy date of August 23, 2013, for \$1,200.00 in unpaid rent effective August 1, 2013, and

- A copy of the Proof of Service of the Notice to End Tenancy showing that the landlord served the notice to end tenancy on the tenant in-person on August 13, 2013.

Section 90 of the Act provides that as the notice to end tenancy was served in-person on August 13, 2013, the tenant is deemed to have received the notice on that same date.

The Notice restates section 46(4) of the Act which provides that the tenant had 5 days to pay the rent in full or apply for Dispute Resolution. The tenant did not apply to dispute the Notice to End Tenancy within 5 days from the date of service. The landlord claims that while the tenant later paid the rent in full on August 20, 2013, the landlord still seeks to obtain an order of possession.

Analysis

I find that the tenant received the notice to end tenancy on August 13, 2013. I accept the landlord's evidence and I find that the tenant did not apply to dispute the notice. I also accept the landlord's evidence that while the tenant paid all rent owed on August 20, 2013, which is 7 days after receiving the notice, the tenant failed to pay the full amount of rent owed within the 5 days available pursuant to section 46(5) of the Act. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served 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.

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: September 20, 2013

Residential Tenancy Branch

