



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Columbia Property Management Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory matter was conducted by way of 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 due to unpaid rent and for a monetary order for unpaid rent.

The landlord submitted two signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on September 17, 2013, the landlord served each tenant with the Notice of Direct Request Proceeding by attaching it to the tenants' door.

Based on the written submissions of the landlord, I find that that the tenants have been duly served with the Direct Request Proceeding documents, pursuant to section 89(2)(d) of the Act.

As a result, I proceeded to consider only the portion of the landlord's application seeking an order of possession.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent?

Background and Evidence

The landlord submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on April 19, 2013, for the monthly rent of \$1550;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) which was issued on, September 5, 2013, with an effective vacancy date of September 15, 2013, due to \$1550 in unpaid rent due September 1, 2013; and
- Proof that the tenants were served the Notice by leaving it with tenant AM on September 5, 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.

The application of the landlord also requested a monetary order in the amount of \$1550.

I have no evidence before me that the tenants paid the rent listed or 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 submitted by the landlord 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 landlord is entitled to an order of possession for the rental unit.

As to the landlord’s request for a monetary order, Section 89(1) of the Residential Tenancy Act requires that an application for dispute resolution be served upon the respondents in person, by registered mail to the address at which the person resides, or if a tenant, by registered mail to the forwarding address provided by the tenant.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenants.

The order of possession 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 should the tenants fail to comply with this order of possession. The tenants are advised that costs of such enforcement are recoverable from the tenants.

Due to the failure of the landlord to serve the tenants their application for dispute resolution in a manner required by section 89(1) of the Act, I dismiss the portion of the landlord's application seeking a monetary order, 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* and is being mailed to both the applicant and the respondents.

Dated: September 23, 2013

Residential Tenancy Branch

