



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR

Introduction

This matter was originally set for a 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 and a Monetary Order.

The Landlord served each of the two Respondents, by registered mail, sent to the rental unit on August 7, 2013. The Landlord provided Proof of Service documents in evidence and attached the registered mail receipts to the documents. I am satisfied that both of the Respondents were served.

The Landlord named two Respondents on his Application for Dispute Resolution; however, only one of them signed the tenancy agreement and it was not possible to determine the name of the Tenant from the signature on the tenancy agreement.

The Direct Request Proceeding was adjourned to a participatory Hearing in order that questions could be asked and answered with respect to the tenancy agreement. An Interim Decision was provided to the parties on August 12, 2013, which should be read in conjunction with this Agreement.

The Landlord gave affirmed testimony at the Hearing on September 24, 2013.

Preliminary Matter

The Landlord testified that the Tenant was RD, and that he served RD with the Notice of Hearing by handing the document to RD in person at the rental unit on August 14, 2013. He stated that he did not serve the other Respondent because the other Respondent was not a tenant.

I accept the Landlord's affirmed testimony that the Tenant RD was served with the Notice of Hearing. Despite being served, the Tenant did not sign into the teleconference and the Hearing continued in his absence.

I amended the Landlord's Application for Dispute Resolution to delete the name of the other Respondent.

Issues 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

A residential tenancy agreement was provided in evidence. Monthly rent is \$830.00 due on the last day of each month.

The Landlord provided a Proof of Service document, which is signed by a witness. The Proof of Service document indicates that on August 1, 2013, the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, by leaving it personally with the Tenant at the rental unit.

The Tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

The Landlord testified that the Tenant has not paid any of the arrears since the Notice was issued and the Tenant still resides in the rental unit.

The Landlord seeks a monetary order for unpaid rent calculated as follows:

Rent payable from August, 2012 to July, 2013 (10 months x \$830.00)	\$8,300.00
Total rent received from August, 2012 to July, 2013	<u>-\$1,520.00</u>
Balance owing	\$6,780.00

Analysis

I accept that the Landlord served the Tenant with the Notice to End Tenancy on August 1, 2013.

I accept the Landlord's undisputed testimony that the Tenant did not pay all of the arrears within 5 days of receiving the documents. The Tenant did not file an application

to cancel the Notice to End Tenancy within 5 days of receipt of the Notice to End Tenancy. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on August 11, 2013. I find that the Landlord is entitled to an Order of Possession and a Monetary Order in the amount of **\$6,780.00**.

Conclusion

I hereby provide the Landlord with an Order of Possession effective 2 days after service of the Order upon the Tenant. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord with a Monetary Order in the amount of **\$6,780.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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 24, 2013

Residential Tenancy Branch

