



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM 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 two signed Proofs of Service of the Notice of Direct Request Proceeding which declare that on October 10, 2013 a process server personally served each Respondent with the Notice of Direct Request Proceeding. Based on the written submissions, I find the Respondents have been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent, pursuant to sections 55 and 67 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 each Respondent
- A copy of a residential tenancy agreement which names both Respondents but appears to only be signed by the female Tenant. The agreement indicates that the tenancy began on April 01, 2012 and that the rent of \$1,700.00 is due by the first day of each month
- A copy of a Notice of Rent Increase that indicates the rent was increased to \$1,764.60, effective July 01, 2013

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was signed by the female Landlord and is dated October 02, 2013 which declares that the Tenant must vacate the rental unit by October 12, 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 declares that the Tenants owe rent, in the amount of \$1,764.60, that was due on October 01, 2013
- A copy of a Proof of Service of the Ten Day Notice to End Tenancy for Unpaid Rent, in which the female Landlord stated that she personally served the Notice to the female Tenant on October 02, 2013. The Landlord's friend/co-worker signed the Proof of Service to indicate that she witnessed the service of the Ten Day Notice to End Tenancy.

On the Application for Dispute Resolution, the Landlord declares that the 10 Day Notice to End Tenancy was personally served on October 02, 2013 and that the rent has not yet been paid.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the female Tenant entered into a tenancy agreement with the Landlord and that she is currently required to pay monthly rent of \$1,764.60.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the rent for October of 2013 had not been paid 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 the female Tenant still owes rent in the amount of \$1,764.60.

As the male Respondent has not signed the tenancy agreement, I have insufficient evidence to show that he entered into a tenancy agreement with the Landlord. As I have insufficient evidence to show that male Respondent entered into a tenancy agreement, I cannot conclude that he owes rent to the Landlord. I find that a participatory hearing should be convened to determine whether the Landlord should be granted a monetary Order that also names the male Respondent.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that a 10 Day Notice to End Tenancy was personally served to the female Tenant on October 02, 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 accepted that the tenancy ended ten days after the Tenant received the Notice, which is October 12, 2013.

Conclusion

I grant the Landlord an Order of Possession that is 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.

I order that the direct request proceeding be reconvened in accordance with section 74 of the *Act*. Notices of Reconvened Hearing will be mailed to the Landlord by the Residential Tenancy Branch. A copy of the Notice of Reconvened Hearing and this Interim Decision must be served to each Respondent, in accordance with section 88 of the *Act*, within **three (3) days** of receiving the Notice of Reconvened Hearing and this Interim Decision.

Each party must serve the other and the Residential Tenancy Branch with any evidence that they intend to reply upon at the new hearing. Fact sheets are available at <http://www.rto.gov.bc.ca/content/publications/factSheets.aspx> that explain evidence and service requirements. If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

Lower Mainland: 604-660-1020

Victoria: 250-387-1602

Elsewhere in BC: 1-800-665-8779

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: October 21, 2013

Residential Tenancy Branch

