Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   OPR, MNR

Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the "Act"), and deals with an Application for Dispute Resolution by the Landlord for:

1.   An Order of Possession – Section 55; and

2.   A Monetary Order for unpaid rent – Section 67.

Given the Landlord's signed proof of service of the Notice of Direct Request Proceeding (the "Documents"), I find that the Landlord served the Tenant personally with the "Documents" on October 17, 2013 in accordance with the Act.

Issue(s) 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

The Landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding;

- A copy of a residential tenancy agreement signed by the Parties on June 15, 2012, indicating a tenancy start date of June 15, 2012 and a monthly rent of $1,100.00 due on the first day of the month;

- A copy of a 10 day notice to end tenancy for unpaid rent (the "Notice") issued on October 11, 2013 with a stated effective vacancy date of October 21, 2013 for $3,520.00 in unpaid rent;

- A statement of rental arrears showing unpaid rental amounts for July, August, September and October 2013; and

- A proof of service of the Notice showing that the Landlord served the Notice to the Tenant personally on October 11, 2013.

The Tenant did not make an application to dispute the Notice.

<u>Analysis</u>

Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. Section 46 of the Act provides that a tenant may, within 5 days after receiving a notice to end tenancy for unpaid rent, pay the overdue rent, in which case the notice has no effect, or dispute the notice by making an application for dispute resolution. If a tenant does not pay the rent or make an application to dispute the notice, the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the unit by the effective date of the notice. Based on the submissions of the Landlord, I find that the Notice was deemed to have been served on October 11, 2013 and that the Tenant had five days from this date to pay the rent or make an application to dispute the Notice. I accept that the Tenant has failed to pay the rent and has not made an application to dispute the Notice. I find therefore that the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent in the amount of **$3,520.00**.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service** 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.

I grant the Landlord an order under Section 67 of the Act for the amount of **$3,520.00**. If necessary, this order may be filed in the Small Claims Court 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: October 31, 2013

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Residential Tenancy Branch