



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Mainstreet Equity Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory, ex parte matter was conducted by way of 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 for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice").

The landlord submitted signed two Proofs of Service of the Notice of Direct Request Proceeding which declares that on September 29, 2013, the landlord served each tenant with their Notice of Direct Request Proceeding, including the landlord's application, via registered mail. Pursuant to section 90 of the Act, the documents were deemed served 5 days later.

Based on the written submissions of the landlord, I find that the tenants have been served with the Direct Request Proceeding documents as required under section 89 of the Act.

Preliminary matter-The landlord submitted a tenancy agreement which was signed by only tenant SK. As the direct request process is conducted by written submissions only, one of the documents required is tenancy agreement signed by each tenant; as only one tenant signed the tenancy agreement, I proceeded with the direct request process and considered the merits against tenant SK only.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit and a monetary order 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 an agent of the landlord and tenant SK on June 5, 2013, indicating a monthly rent of \$900 due on the first day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated on September 6, 2013, 2013, with a stated effective move out date of September 16, 2013, listing \$900 in unpaid rent; and
- Proof that the tenants were served the Notice by posting it on the tenants' door on September 6, 2013. Section 90 of the Act deems the tenants were served on September 9, 2013. Therefore the effective vacancy date, September 16, 2013, is automatically corrected to September 19, 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.

I have no evidence before me that the tenants have 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 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 and a monetary order for unpaid rent in the amount of \$900.

Conclusion

I grant the landlord an order of possession for the rental unit effective two days after service on the tenant, which 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 for enforcement as an order of that Court should the tenant fail to comply with the terms

of the order of possession. The tenant is advised that costs of such enforcement may be recovered from the tenant.

I grant the landlord a monetary order in the amount of \$900, pursuant to section 67 of the Act, comprised of rent owed, which is enclosed with the landlord's Decision. This order is a legally binding, final order, and should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement may be recovered from the tenant.

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 respondent.

Dated: October 07, 2013

Residential Tenancy Branch

