



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NACEL PROPERTIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 22, 2013, at 3:50 p.m. the Landlord personally served the Tenant with the Notice of Direct Request Proceeding. Based on the written submissions of the Landlord, I find that the Tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of a residential tenancy agreement which was signed by all parties for a fixed term tenancy that began on April 1, 2010 and switched to a month to month tenancy after September 30, 2010, for the monthly rent of \$1,750.00 which is payable monthly;
- A copy of the October 13, 2011 notice of rent increase raising the rent from \$1,750.00 to \$1,765.00 effective February 1, 2012; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, October 3, 2013 with an effective vacancy date of October 13, 2013, due to \$1,765.00 in unpaid rent that was due October 1, 2013.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on October 3 2013, at 3:15 p.m. when it was posted to the Tenant's door in the presence of a witness.

Analysis

Order of Possession - I have reviewed all documentary evidence and accept that the Tenant has been served with notice to end tenancy as declared by the Landlord. The notice is deemed to have been received by the Tenant on October 6, 2013, the third day after it was posted to the Tenant's door, and the effective date of the notice is October 16, 2013, pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenant has 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 Tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice and I hereby grant the Landlord an Order of Possession.

Monetary Order – The evidence supports that the Tenant has failed to pay rent in accordance with section 26 of the *Act* which stipulates that a tenant must pay rent when it is due under the tenancy agreement. The Tenant owes \$1,765.00 that was due October 1, 2013. As per the aforementioned I find the Landlord has met the burden of proof and I award them a Monetary Order for **\$1,765.00**.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served upon the Tenant.

The Landlord has been awarded a Monetary Order in the amount of **\$1,765.00**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia 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 30, 2013

Residential Tenancy Branch

