



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 conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the Act). The landlord applied for an order of possession 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 November 2, 2013 the landlord served the tenant with notice of the direct request proceeding by registered mail. Section 90 of the Act states that a document is deemed to have been served five days after mailing.

Based on the landlord's written submissions, I find that the tenant has been served with the Direct Request Proceeding documents.

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 a residential tenancy agreement, signed by the tenant and the landlord on July 29, 2013, indicating a monthly rent of \$1500 due on the first of each month;

- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on October 15, 2013, with no effective vacancy date indicated, for failure to pay rent in the amount of \$2500 that was due on October 1, 2013;
- a copy of the Proof of Service of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, showing that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the notice on the rental unit door in the presence of a witness on October 15, 2013; and
- a copy of the Landlord's Application for Dispute Resolution, filed October 24, 2013, in which the landlord has claimed \$2500 in outstanding rent.

Analysis

I have reviewed all documentary evidence and I accept that the tenant has been served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on October 18, 2013. I realize that the Notice did not specify an effective date but I am authorized by Section 53 of the Act to make corrections to effective dates. The original effective date should have been October 25, 2013. But the effective date is bumped to October 28, 2013 to take into account the deemed receipt provision of the Act for documents that are posted.

I accept the evidence before me that the tenant has failed to pay the full amount of rent owed within the five days granted under section 46(4) of the Act. 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.

I therefore find that the landlord is entitled to an order of possession and a monetary order for unpaid rent in the amount of \$2500.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. The tenant must be served with the order of possession. 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.

As for the monetary order, I grant the landlord an order under section 67 for the sum of \$2500. 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: November 19, 2013

Residential Tenancy Branch

