



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 copies of signed Proof of Service of the Notice of Direct Request Proceeding documents, which declare that on November 18, 2013 the landlord served the tenants 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 tenants have 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 tenants and the landlord on July 31, 2013, indicating a monthly rent of \$1200 due on the first of each month;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on November 4, 2013, with an effective vacancy date of November 14, 2013, for

failure to pay rent in the amount of \$3,300 plus \$75 in late fees, that was due on November 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 tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the notice to the rental unit door in the presence of a witness on November 4, 2013; and
- a copy of the Landlord's Application for Dispute Resolution, filed November 15, 2013, in which the landlord indicated that the tenants had failed to pay the \$3,300 in outstanding rent.

Analysis

I have reviewed all documentary evidence and I accept that the tenants have been served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on November 7, 2013.

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

I therefore find that the landlord is entitled to an order of possession and a monetary order for unpaid rent in the amount of \$3,330.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenants. The tenants must be served with the order of possession. Should the tenants 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 balance due of \$3,300. 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 28, 2013

Residential Tenancy Branch

