



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Westsea Construction Ltd
and [tenant name suppressed to protect privacy]

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, made November 14, 2013, 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 November 14, 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 January 5, 2011, indicating a tenancy start date of January 1, 2011 and a monthly rent of \$645.00 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 November 4, 2013 with a stated effective vacancy date of November 15, 2013, automatically corrected to November 18, 2013, for \$950.00 in unpaid rent; and
- A proof of service of the Notice showing that the Landlord served the Notice to the Tenant personally on November 8, 2013.

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

Analysis

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 November 8, 2013 and that the Tenant had until November 13, 2013 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. As the Landlord has not provided any evidence of a rent increase or other evidence to substantiate the rental amount of \$745.00 being claimed for November 2013 and given the tenancy agreement provision for the rental amount, I find that the Landlord has only substantiated an entitlement to **\$645.00** in unpaid rent for November 2013.

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 **\$645.00**. 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: November 27, 2013

Residential Tenancy Branch

