Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0823617 BC Ltd.
and [tenant name suppressed to protect privacy]

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"), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 15, 2013 the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit address.   The landlord provided a Canada Post receipt and tracking number as evidence of service. Section 90 of the Act determines that a document is deemed to have been served on the 5th day after mailing.

Based on the written submissions of the landlord, 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 monetary compensation for unpaid November 2013 rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- 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 the parties on August 2, 2013, indicating a monthly rent of $626.00 due on or before the 1st day of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on November 2, 2013 with a stated effective vacancy date of November 15, 2013, for $626.00 in unpaid rent due November 1, 2013.

Documentary evidence filed by the landlord indicates that the tenant has failed to pay rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting to the tenant's door on November 2, 2013 at 3 p.m. The landlord supplied a proof of service document signed by a witness; P.K., confirming her presence during

service. The relationship of P.K. to the landlord was not notated on the proof of service document.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end.

The landlord has requested an Order of possession and monetary Order for unpaid November 2013 rent in the sum of $626.00.

Analysis

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 November 5, 2013; the 3rd day after posting to the tenant's door.

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. There was no evidence before me that the tenant disputed the Notice within 5 days of November 5, 2013.

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; November 15, 2013.

Therefore, pursuant to section 55 of the Act, I find that the landlord is entitled to an Order of Possession effective **two days after service** on the tenant and the Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of $626.00 for November 2013 rent owed and I grant an Order in that amount. This Order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an Order of possession and a monetary Order for unpaid rent.

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 25, 2013

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Residential Tenancy Branch