



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Metro Vancouver Housing Corporation
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 dealt with an Application for Dispute Resolution by the landlord 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 15, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding by posting it to the door of the rental unit.

Section 90 of the Act determines that a document served in this manner is deemed to have been received 3 days after service.

Section 89 of the Act provides that while an application for dispute resolution requesting an order of possession may be posted to a door, an application seeking a monetary order must be personally served or served by registered mail. I find that the Direct Request Proceeding documents have been properly served as pertains to the request for an order of possession, but not for the monetary order. I therefore dismiss the claim for a monetary order with leave to reapply.

Issues to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding;
- A copy of a residential tenancy agreement which was signed by the parties in June 1996, indicating that at the beginning of the tenancy, the tenant was obligated to pay \$870.00 in rent in advance on the first day of each month;

- Copies of several notices of rent increase;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") which the landlord served on the tenant on November 1, 2013 for \$625.00 in unpaid rent and (I presume) a late payment fee due in the month of October;
- A copy of the Proof of Service of the Notice showing that the landlord served the Notice on the tenant by posting the notice to the door of the rental unit; and
- A copy of the tenant's cheque dated October 25, 2013 which was returned by the bank.

Section 90 of the Act provides that because the Notice was served by posting, the tenant is deemed to have received the Notice 3 days later on November 4, 2013.

The Notice restates section 46(4) of the Act which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution. The tenant did not apply to dispute the Notice within five days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

Analysis

I find that the tenant received the Notice on November 4, 2013. I accept the landlord's undisputed evidence and I find that the tenant did not pay the rental arrears and did not apply to dispute the Notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court.

Conclusion

I grant the landlord an order of possession. The claim for a monetary order is dismissed with leave to reapply.

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

