



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This non-participatory, ex parte matter was conducted by way of a 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 for the rental unit, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”).

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 12, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding, including the landlord’s application, by leaving it with the tenant.

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents as required by section 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit?

Background and Evidence

The landlord submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on August 20, 2013, indicating a monthly rent of \$850 due on the first day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated on November 2, 2013, with a stated effective move out date of November 12, 2013, listing \$234.42 in unpaid rent;

- Proof that the tenant was served the Notice by leaving it with the tenant on November 2, 2013;
- A receipt showing payment of the balance of the unpaid rent listed on the Notice on November 8, 2013, on a “for use and occupation only. Tenancy is not re-instated.”

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

The evidence before me shows that the tenant paid the rent listed on the Notice, but not within 5 days of receiving the Notice. I have no evidence before me that the tenant filed an application for dispute resolution to dispute the Notice.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with a notice to end tenancy as declared by the landlord.

I accept the evidence before me submitted by the landlord that the tenant failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

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. Therefore, I find that the landlord is entitled to an order of possession for the rental unit.

Conclusion

I grant the landlord an order of possession for the rental unit effective two days after service on the tenant, which is enclosed with the landlord's Decision. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court should the tenant fail to comply with the terms of the order of possession. The tenant is advised that costs of such enforcement may be recovered from the tenant.

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* and is being mailed to both the applicant and the respondent.

Dated: November 15, 2013

Residential Tenancy Branch

