



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding E Y Properties 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). The landlord applied 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 26, 2013 the landlord served the tenant with notice of the direct request proceeding by posting the notice on the rental unit door. Section 90 of the Act states that a document is deemed to have been served three days after posting.

Based on the landlord's written submissions, I find that the tenant has been served with the Direct Request Proceeding documents.

Preliminary Issue – Monetary Claim

Under section 89 of the Act, an application for a monetary claim cannot be served by posting the application. I therefore dismiss the landlord's monetary claim with leave to reapply.

Issue(s) 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 a residential tenancy agreement, signed by the tenant and the landlord on February 18, 2009, indicating a monthly rent of \$890 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 6, 2013, with an effective vacancy date of November 21, 2013, for failure to pay rent in the amount of \$1335 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 tenant was personally served the 10 Day Notice to End Tenancy for Unpaid Rent in the presence of a witness on November 6, 2013; and
- a copy of the Landlord's Application for Dispute Resolution, filed November 25, 2013, in which the landlord indicated that the tenant had failed to pay the outstanding rent.

Analysis

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

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

I therefore find that the landlord is entitled to an order of possession.

Conclusion

The monetary portion of the landlord's claim is dismissed with leave to reapply.

I grant the landlord an order of possession effective two days after service on the tenant. The tenant must be served with the order of possession. 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.

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: December 3, 2013

Residential Tenancy Branch

