



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding A & R Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

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"), via the documentary submissions of the landlord, and dealt with an application for dispute resolution by the landlord for an order of possession for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice").

The landlord submitted 2 signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on January 20, 2014, the landlord served each tenant with the Notice of Direct Request Proceeding, including the landlord's application, by registered mail. Pursuant to section 90 of the Act, the documents were deemed served 5 days later.

Based on the written submissions of the landlord, I find that the tenants have been served with the Direct Request Proceeding documents as required by section 89(1) of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit and a monetary order due to unpaid rent?

Background and Evidence

The landlord submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by tenant NB and another tenant not named in the landlord's application for dispute resolution on

January 22, 2013, indicating a monthly rent of \$950 due on the first day of the month;

- A copy of a residential tenancy agreement which was signed by tenant JG on April 12, 2013, indicating a monthly rent of \$950 due on the first day of the month, but failing to list the start date of the tenancy;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated on January 4, 2014, with a stated effective move out date of January 14, 2014, listing, among other things, \$475 in unpaid rent; and
- Proof that the tenants were served the Notice by registered mail on January 4, 2014. Section 90 of the Act deems the tenant was served on January 9, 2014. Therefore the effective vacancy date, January 14, 2014, is automatically corrected to January 19, 2014, pursuant to section 53 of the Act.

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

I have no evidence before me that the tenants paid the rent listed or filed an application for dispute resolution to dispute the Notice.

Analysis

One of the documents that must be submitted in order to qualify for the direct request procedure, which is based upon written submissions only, is a tenancy agreement stating the date on which the tenancy starts, pursuant to section 13 (2)(f)(i) of the Act.

As the start date of the tenancy was not listed in the tenancy agreement between the landlord and tenant JG, I find that tenancy agreement to be deficient as required by the Act and I therefore I dismiss the landlord's application with leave to reapply, against tenant JG. If the landlord wishes to submit a new application against tenant JG, they should do so through the normal dispute resolution process which includes a participatory hearing.

As to tenant NB, I have reviewed the landlord's documentary evidence and accept that the tenants have been served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities as submitted by the landlord.

I accept the landlord's documentary evidence that the tenants 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 tenant NB 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 and a monetary order against tenant NB for unpaid rent in the amount of \$475.

Conclusion

Pursuant to section 55(4)(b) of the Act, 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.

I grant the landlord a monetary order in the amount of \$475, pursuant to section 67 of the Act, comprised of rent owed, which is enclosed with the landlord's Decision. This order is a legally binding, final order, and should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. 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: January 29, 2014

Residential Tenancy Branch

