



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Waterscapes Homes LP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

Introduction

This matter proceeded by way of an *ex parte* 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 based on unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 22, 2014, the landlord sent both tenants separate Notices of Direct Request Proceedings by registered mail. The landlord provided a copy of the Canada Post Tracking Numbers and Customer Receipts to confirm these registered mailings. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenants have been deemed served with the Direct Request Proceeding documents on January 27, 2014, the fifth day after their registered mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proofs of Service of the Notices of Direct Request Proceedings served to the tenants;
- A copy of a residential tenancy agreement which was signed by the tenants on February 28, 2013 and by the landlord on March 1, 2013, indicating a monthly rent of \$1,250.00 due on the 1st day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) sent to the tenants by registered mail on November 7, 2013, with a stated effective vacancy date of November 22, 2013, for \$1,250.00 in unpaid rent; and

- A copy of the Tenant Ledger outlining the amounts owing and payments made during the course of this tenancy.

The landlord entered into written evidence a copy of the Canada Post Tracking Number to confirm the mailing of the 10 Day Notice to the tenants on November 7, 2013. In accordance with sections 88 and 90 of the *Act*, the tenants were deemed served with this 10 Day Notice on November 12, 2012, five days after the registered mailing of the 10 Day Notice to the tenants.

The Notice states that the tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days of being deemed to have received the 10 Day Notice. They did not pay all of the \$1,250.00 in rent identified as owing in the 10 Day Notice within five days of being deemed to have received the 10 Day Notice.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been deemed served with notice to end tenancy as declared by the landlord. I accept the evidence before me that the tenants have 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 tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, November 22, 2013. Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing as of November 7, 2013.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia. 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: January 29, 2014

Residential Tenancy Branch

