



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NPR Limited Partnership
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

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 and a monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 24, 2014, one of the landlord’s representatives handed the tenant the Notice of Direct Request Proceeding. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on January 24, 2014.

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*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to the tenant;
- A copy of a residential tenancy agreement signed by the tenant on April 1, 2013, indicating a monthly rent of \$775.00, due on the 1st day of the month;
- A copy of a Resident Ledger outlining all payments made and due during the course of this tenancy; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) posted on the tenant's door on January 6, 2014, with a stated effective vacancy date of January 19, 2014, for \$798.94 in unpaid rent and utilities.

Witnessed documentary evidence filed by the landlord indicates that the tenant failed to pay all outstanding rent and utilities was served by posting the 10 Day Notice to the tenant's door at 2:00 p.m. on January 6, 2014. In accordance with sections 88 and 90 of the *Act*, the tenant was deemed served with this 10 Day Notice on January 9, 2014, three days after its posting.

The Notice states that the tenant had five days from the date of service to pay the amount identified in the 10 Day Notice in full or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been deemed served with 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 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 10 Day Notice, January 19, 2014. Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing from January 2014.

Based on my review of the items included in the Resident Ledger and the Residential Tenancy Agreement, I find that the landlord is entitled to a monetary Order of \$775.00, the monthly rent owing for January 2014. I find that the remainder of the amount identified as owing in the 10 Day Notice includes items beyond the base rent established in the tenancy agreement and cannot be considered by way of the Direct Request Process chosen by the landlord.

Conclusion

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

Pursuant to section 67 of the *Act*, I find that the landlord is entitled to a monetary Order in the amount of \$775.00 for rent owed for January 2014. The landlord is provided with these Orders in the above terms and the tenant must be served with **this Order** as soon

as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: January 31, 2014

Residential Tenancy Branch

