



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory 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 or Utilities (the "Notice").

The landlord submitted 2 signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on February 23, 2014, the landlord served each tenant with the Notice of Direct Request Proceeding, including the landlord's application, via 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 under 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 the parties on August 19, 2013, indicating a monthly rent of \$1100 due on the first day of the month beginning on;

- A copy of the 10 Day Notice to End Tenancy for Unpaid Rent and Utilities which was dated February 9, 2014, with a stated effective move out date of February 19, 2014, listing \$1100 in unpaid rent as of February 1, 2014; and
- A signed Proof of Service that the tenants were served the Notice by attaching it to the tenants' door on February 9, 2014. Section 90 of the Act deems the tenants were served on February 12, 2014. Therefore the effective vacancy date, February 19, 2014, is automatically corrected to February 22, 2014, pursuant to section 53 of the Act.

The Notice states 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 have filed an application for dispute resolution to dispute the Notice.

Analysis

I have reviewed all documentary evidence of the landlord and accept that the tenants have been served with a notice to end tenancy 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 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 Notice. Therefore, I find that the landlord is entitled to an order of possession for the rental unit and a monetary order for unpaid rent in the amount of \$1100.

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 tenants, 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 tenants fail to comply with the terms of the order of possession. The tenants are advised that costs of such enforcement may be recovered from the tenants.

I grant the landlord a monetary order in the amount of \$1100, 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 tenants 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 tenants are advised that costs of such enforcement may be recovered from the tenants.

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 respondents.

Dated: March 06, 2014

Residential Tenancy Branch

