



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 55(4) and 74(2) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution filed by the Landlord for an Order of Possession.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 17, 2014 the female Landlord served the Tenant with the Notice of Direct Request Proceeding by registered mail. The Landlord submitted a copy of a Canada Post Receipt, with a tracking number, which corroborates that the Landlord mailed a package to the rental unit. Section 90 of the *Act* determines that a document served by mail is deemed to have been served on the fifth day after it is mailed, which in these circumstances is April 22, 2014.

Based on the written submissions of the Landlord, I find the Tenant has been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession, pursuant to section 55 of the *Act*?

Background and Evidence

I have reviewed the following evidence that was submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant.

- A copy of a residential tenancy agreement for the rental unit, which appears to be signed by the Tenant, that indicates that the tenancy began on March 01, 2013 and that the Tenant agreed to pay rent of \$475.00 by the first day of each month.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that appears to be signed by the male Landlord and is dated April 08, 2014, which declares that the Tenant must vacate the rental unit by April 18, 2014 as the Tenant has failed to pay rent in the amount of \$475.00 that was due on May 01, 2014. The Notice declares that the tenancy will end unless the Tenant pays the rent or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice.
- A copy of a signed Proof of Service of the 10 Day Notice to End Tenancy in which the female Landlord declared that the Notice was personally served to the Tenant on April 08, 2014, in the presence of the female Landlord's husband, who also signed the Proof of Service.

In the Application for Dispute Resolution the Landlord declared that the 10 Day Notice to End Tenancy for Unpaid Rent was served on April 08, 2014 and that rent for April has not been paid.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement that required the Tenant to pay monthly rent of \$475.00 by the first day of each month and that the Tenant had not paid rent for April of 2014 by the time the Landlord filed this Application for Dispute Resolution. I therefore find that the Landlord had grounds to end this tenancy pursuant to section 46 of the *Act*.

I have no evidence to show that the Tenant paid the outstanding rent since the Application for Dispute Resolution was filed.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that a 10 Day Notice to End Tenancy was personally served to the Tenant on April 08, 2014.

I have no evidence to show that the Tenant filed an Application for Dispute Resolution seeking to set aside the Notice to End Tenancy or that the Tenant has paid the outstanding rent. Pursuant to section 46(5) of the *Act*, I therefore find that the Tenant has accepted that the tenancy ended on the effective date of the Notice. On this basis, I find that the Landlord is entitled to an Order of Possession.

Conclusion

I grant the Landlord an Order of Possession effective two days after service on the Tenant. This Order may be served on the Tenant, filed with 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: April 23, 2014

Residential Tenancy Branch

