



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the Act). The landlord applied for an order of possession and a monetary order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding, which declares that on March 11, 2014 the landlord personally served the tenant with notice of the direct request proceeding. Based on the landlord's written submissions, I find that 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?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord on May 28, 2012, indicating a monthly rent of \$1150 due on the first of each month;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on February 21, 2014, with an effective vacancy date of March 3, 2014, for failure to pay rent in the amount of \$2300 that was due on January 1, 2014;

- a copy of the Proof of Service of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, showing that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the notice to the rental unit door in the presence of a witness on February 21, 2014; and
- a copy of the Landlord's Application for Dispute Resolution, filed March 11, 2014, in which the landlord claimed \$3400 in outstanding rent. The landlord indicated that the tenant still owed \$100 in unpaid rent from December 2013 and had not paid any rent of \$1100 per month for January, February or March 2014.

Analysis

I have reviewed all documentary evidence and I accept that the tenant has been served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on February 24, 2014.

I accept the evidence before me that the tenant has failed to pay rent owed within the five days granted under section 46(4) of the Act. 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 notice. I therefore find that the landlord is entitled to an order of possession.

I find that the landlord is not entitled to a monetary order, as the documentary evidence regarding rent is not clear. The tenancy agreement indicates that monthly rent is \$1150. The landlord indicated in his application that the rent is \$1100, and he claimed \$3400. The notice for unpaid rent indicates that the tenant owed \$2300 as of January 1, 2014.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The landlord's monetary claim is dismissed with leave to reapply.

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: March 18, 2014

Residential Tenancy Branch

