



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sunset Park Apartments
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 at 1:45 p.m. on February 28, 2014, the landlord handed the male tenant his Notice of Direct Request Proceeding. The male tenant signed that document confirming that he received it at that date and time. The landlord also submitted a second Notice of Direct Request Proceeding that he and a witness declared was handed to the female tenant at 10:05 a.m. on March 1, 2014. Based on the written submissions of the landlord, I find that the female tenant was served with the Direct Request Proceeding documents on February 28, 2014, and the male tenant was served with these documents on March 1, 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 both tenants;

- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on December 9, 2013, indicating a monthly rent of \$695.00, due on the 1st day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) handed to the female tenant on February 11, 2014, with a stated effective vacancy date of February 21, 2014, for \$695.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant failed to pay all outstanding rent was served by handing the 10 Day Notice to the female tenant on February 11, 2014. The female tenant signed a Proof of Service document confirming that she received the 10 Day Notice on that day. In accordance with sections 88 and 90 of the *Act*, the tenants were served with this 10 Day Notice on February 11, 2014.

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 from the date of service.

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, February 21, 2014.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order of \$695.00 for unpaid rent owing from February 2014.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). 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 \$695.00 for rent owed for February 2014. The landlord is provided with these Orders in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) 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: March 10, 2014

Residential Tenancy Branch

