



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BURNABY HEIGHTS LTD.
and [tenant name suppressed to protect privacy]

DIRECT REQUEST DECISION

Dispute Codes OPR, MNR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order.

Evidence verifies that the landlord made an application for a Direct Request Proceeding on May 14, 2014. The landlord submitted signed a Proof of Service of the Notice of Direct Request declaring that the landlord served the tenant with the Notice by registered mail sent on May 14, 2014. The landlord included the registered mail tracking slip which documented the name of the party served.

Section 90 of the Residential Tenancy Act, (*the Act*), determines that a document is deemed to have been served on the fifth day after it was sent. Based on the written submissions of the landlord, I find that the tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord is entitled to an Order of and a monetary Order for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding and Proof of Service of the Ten-Day Notice, verifying service to the tenant,
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 3, 2014 for \$880.00 in rental arrears, and
- A copy of a tenancy agreement signed by the parties on May 14, 2013, confirming that the rent is \$880.00 per month, due on the first day of each month.

Documentary evidence from the landlord shows that the tenant failed to pay \$880.00 rent for May 2014 and the landlord is seeking compensation in this amount and an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent.

Analysis

Based on the evidence before me, I find the tenant was duly served with a Notice to End Tenancy for Unpaid Rent by posting it on the tenant's door on May 3, 2014. The Notice states the tenant has five days to pay the rent to cancel the Notice or to apply for Dispute Resolution to dispute the Notice. I find that the tenant did not apply to dispute the Notice to End Tenancy within five days and did not pay the arrears within five days.

I find that the tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Given the above facts, I find that the landlord is entitled to an Order of Possession.

Given the above, I find that the landlord is also entitled to monetary compensation for rental arrears, under section 67 of the Act, in the amount of \$880.00.

I hereby grant the landlord an Order of Possession effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I order monetary compensation to the landlord under section 67 in the amount of \$880.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is successful in the application and is granted both a monetary order and an Order of Possession.

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: May 20, 2014

Residential Tenancy Branch

