



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

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 and a monetary order.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 20, 2014 the Landlord served the female 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 indicates that the Landlord mailed a package to this Tenant. Section 90 of the *Act* stipulates 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 June 25, 2014.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 19, 2014 the Landlord personally served the male Tenant with the Notice of Direct Request Proceeding.

Based on the written submissions of the Landlord, I find the both Tenants have been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent and a monetary Order, pursuant to sections 55 and 67 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 each Tenant.
- A copy of a residential tenancy agreement between the Landlord and the Tenant, which appears to be signed by the female Tenant, but not the male Tenant. The agreement indicates that the tenancy began on October 01, 2011 and that the rent of \$1,300.00 was due 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 Landlord, which states that the Tenant must vacate an undisclosed location by an undisclosed date. The Notice declares that rent of \$2,600.00 is due.
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy that indicates that an agent for the Landlord posted the Notice on the door of the rental unit on June 03, 2014, in the presence of another person, 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 posted on the door of the rental unit on June 03, 2014.

In the Application for Dispute Resolution, the Landlord stated that the Tenant owes \$2,600.00 in rent.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the female Tenant entered into a tenancy agreement with the Landlord that required her to pay monthly rent of \$1,300.00 and that rent of \$2,600.00 is currently due. As the Tenant is obligated to pay rent when it is due, I find that the Tenant must pay the Landlord \$2,600.00 in rent for the period up to, and including, June 30, 2014.

As the male Tenant has not signed the tenancy agreement, I find that I have insufficient evidence to conclude that he also agreed to pay rent of \$1,300.00. I therefore dismiss the Landlord's claim for a monetary Order naming the male Tenant.

Section 46 of the *Act* authorizes a landlord to end a tenancy if rent is not paid when it is due by issuing a valid Notice to End Tenancy. 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 posted at the rental unit on June 03, 2014. I note that this Notice does not declare the day by which the rental unit must be vacated.

Section 46(2) of the *Act* stipulates that a notice to end tenancy under this section must comply with section 52 of the *Act*. Section 52(c) of the *Act* stipulates that to be effective a notice to end tenancy must state the effective date of the Notice. As the 10 Day Notice to End the Tenancy that was posted on June 03, 2014 did not declare the effective date of the Notice, I find that the Notice did not comply with section 52(c) of the *Act* and that it is, therefore, not effective. As the Notice to End Tenancy is not effective, I dismiss the landlord's application for an Order of Possession.

Conclusion

The Landlord has established a monetary claim, in the amount of \$2,600.00, and I grant the Landlord a monetary Order for that amount. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court 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: June 23, 2014

Residential Tenancy Branch

