



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Stranaghan Enterprises
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened. The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 23, 2014 the landlord served each tenant with the Notice of Direct Request Proceeding personally. Based on the written submissions of the landlord, I find that each tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*.

While the landlord applied to recover the fee for filing his Application for Dispute Resolution from the tenants I note that as the landlord chose to seek the decision by way of the Direct Request process I am not allowed under the *Act* to grant any monetary amount other than any outstanding rent proven. As such, I amend the landlord's Application to exclude the claim to recover the filing fee.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on February 28, 2014 for a 3 month fixed term tenancy beginning on February 28, 2014 for the monthly rent of \$785.00 due on the 28th of each month and a security deposit of \$392.50 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on May 12, 2014 with an effective vacancy date of May 22, 2014 due to \$821.50 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the months of April and May 2014 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by leaving it personally with one of the tenants on May 12 at 8:45 p.m. and that this service was witnessed by a third party. The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days. The landlord acknowledges receiving \$70.00 as partial payment.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on May 12, 2014 and the effective date of the notice was May 22, 2014. I accept the evidence before me that the tenants 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 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 Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$751.50** comprised of rent owed. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 02, 2014

Residential Tenancy Branch

