



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PORTE REALTY LTD.
and [tenant name suppressed to protect privacy]

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 for unpaid rent 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 May 20, 2014, the Landlord served the Tenant by registered mail. Canada Post receipts were provided in the Landlord's evidence. Based on the written submissions of the Landlord, I find that the Tenant is deemed served with the Dispute Resolution Direct Request Proceeding documents on May 25, 2014, five days after they were mailed, pursuant to section 90 of the Act.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of a residential tenancy agreement which was signed by all parties for a fixed term tenancy that commenced on February 15, 2014, and is set to switch to a month to month tenancy after February 28, 2015, for the monthly rent of \$850.00 due in on or in advance of the 1st of each month;
- A notation on the application which indicates the Landlord is seeking \$900.00 which includes May 2014 rent of \$850.00, plus a fee for parking \$25.00 and \$25.00 NSF charge.

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, May 8, 2014, with an effective vacancy date listed as May 17, 2014, due to \$900.00 in unpaid rent that was due on May 1, 2014.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on May 8, 2014, at 12:45 p.m. when it was posted to the Tenant's door, in the presence of a witness. A photo of the Notice posted on the door was also provided in evidence.

Analysis

Order of Possession - I have reviewed all documentary evidence and accept that the Tenant has been served with notice to end tenancy as declared by the Landlord. The notice is deemed to have been received by the Tenant on May 11, 2014, three days after it was posted, and the effective date of the notice is May 21, 2014, pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenant has 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 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 and I hereby grant the Landlord an Order of Possession.

Monetary Order – The evidence supports that the Tenant failed to pay the rent of \$850.00 and failed to pay \$25.00 for parking and a \$25.00 NSF fee that were due on May 1, 2014.

This application was made through the Direct Request Process provided for under section 55(4) of the *Act* which provides that despite section 61 [*setting down dispute for hearing*], in the circumstances described in subsection (2) (b), the director may, without holding a hearing, grant an order of possession, and if the application is in relation to the **non-payment of rent**, grant an order requiring payment of that rent [emphasis added].

As per the aforementioned I approve the Landlord's request for a Monetary Order for unpaid rent of **\$850.00** and dismiss the claims for parking and NSF fees, with leave to reapply.

Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

The Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served upon the Tenant. In the

event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced as an Order of that Court.

The Landlord has been awarded a Monetary Order in the amount of **\$850.00**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be 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 02, 2014

Residential Tenancy Branch

