



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CB MACPHERSON REAL ESTATE 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 Landlords for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 26, 2014, the Landlords served each Tenant by registered mail. Canada Post receipts were provided in the Landlord's evidence. Based on the written submissions of the Landlords, I find that each Tenant is deemed served with the Dispute Resolution Direct Request Proceeding documents on May 31, 2014, pursuant to section 90 of the Act.

Issue(s) to be Decided

Are the Landlords 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 each Tenant;
- A copy of a residential tenancy agreement which was signed by all parties for a fixed term tenancy that commenced on October 1, 2012, and switched to a month to month tenancy after September 30, 2013, for the monthly rent of \$1,995.00 due in advance of the 1st of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, May 6, 2014, with an effective vacancy date listed as May 16, 2014, due to \$1,995.00 in accumulated unpaid rent that was due on May 1, 2014; and
- A tenant ledger which indicates the Tenants paid \$900.00 on May 7, 2014 leaving a balance owing of \$1,095.00.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on May 8, 2014, by registered mail.

Analysis

Order of Possession - 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 13, 2014, five days after it was mailed, and the effective date of the notice is May 23, 2014, pursuant to section 90 of the *Act*. 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 Notice and I hereby grant the Landlord an Order of Possession.

Monetary Order – The evidence supports that the Tenants have failed to pay the balance owing for rent of \$1,095.00 that was due on May 1, 2014. Nonpayment of rent is a violation of section 26 of the *Act* which provides that a tenant must pay rent when it is due under the tenancy agreement. As per the aforementioned I approve the Landlord's request for a Monetary Order for **\$1,095.00**.

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

Conclusion

I HEREBY FIND that the Landlords are entitled to an Order of Possession effective **two days after service on the Tenants**. This Order is legally binding and must be served upon the Tenants.

The Landlords have been awarded a Monetary Order in the amount of **\$1,095.00**. This Order is legally binding and must be served upon the Tenants. In the event that the Tenants do 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

