



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory matter was conducted by way of a direct request proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the "Act"), via the documentary submissions only of the landlord, and dealt with an application for dispute resolution by the landlord for an order of possession for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice").

The landlord submitted two signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on June 24, 2014, the landlord served each tenant with the Notice of Direct Request Proceeding, including the landlord's application, by attaching the documents to the tenant's door. Pursuant to section 90 of the Act, the documents were deemed served 3 days later.

Preliminary matter-Section 89(1) of the Residential Tenancy Act requires that an application for dispute resolution be served upon the respondent (the tenants in this case) by leaving it with the person or by registered mail.

For an order of possession for the rental unit, however, under section 89(2) a landlord is permitted to serve the tenant their application for dispute resolution by attaching the documents to the tenants' door, as is the case here.

As the landlord served the tenants the notice of the dispute resolution proceeding and application for dispute resolution by attaching the documents to the tenants' door, based upon the submissions of the landlord, I therefore find the tenants were served notice of this proceeding and the landlord's application in a manner complying with section 89(2) of the Act and **the matter proceeded only on the portion of the landlord's application for an order of possession for the rental unit only.**

I have dismissed that portion of the landlord's application for dispute resolution seeking a monetary order for unpaid rent, with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit?

Background and Evidence

The landlord submitted the following additional evidentiary material:

- A copy of two residential tenancy agreements which were signed by the parties on February 17, 2014, indicating a monthly rent of \$1500 due on the first day of the month beginning March 1, 2014;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated June 11, 2014, with a stated effective move out date of June 19, 2014, listing \$200 in unpaid rent as of June 1, 2014; and
- A signed Proof of Service that the tenants were served the Notice by attaching it to the tenant's door on June 11, 2014. Section 90 of the Act deems the tenants were served on June 14, 2014. Therefore the effective vacancy date, June 19, 2014, is automatically corrected to June 24, 2014, pursuant to section 53 of the Act.

The Notice stated that the tenants had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

I have no evidence before me that the tenants paid the rent listed on the Notice or filed an application for dispute resolution to dispute the Notice.

Analysis

I have reviewed the landlord's documentary evidence and accept that the tenants have been served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities as submitted by the landlord.

I accept the landlord's documentary evidence that the tenants failed to pay the rent listed as 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. Therefore, I find that the landlord is entitled to an order of possession for the rental unit.

Conclusion

Pursuant to section 55(4)(b) of the Act, I grant the landlord an order of possession for the rental unit effective two days after service on the tenants, which is enclosed with the landlord's Decision. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court should the tenants fail to comply with the terms of the order of possession. The tenants are advised that costs of such enforcement may be recovered from the tenants.

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* and is being mailed to both the applicant and the respondents.

Dated: July 8, 2014

Residential Tenancy Branch

