



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR

This matter 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 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 July 17, 2014, the Notice of Direct Request Proceeding was served on the tenant by way of being "posted at" the "door mail box."

Section 90 of the Act provides that a document served in this manner is deemed to have been received on the 3rd day after service. Based on the written submissions of the landlord, I find that the tenant has been duly served with the Direct Request Proceeding documents.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding;
- A copy of the residential tenancy agreement which was signed by the parties on June 10, 2014, indicating that the tenant is obligated to pay \$3,000.00 in rent in advance on the 15th day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on July 01, 2014, for \$3,000.00 in unpaid rent effective June 15, 2014, and
- A copy of the Proof of Service of the Notice to End Tenancy showing that the landlord served the notice to end tenancy on the tenant by way of posting on the unit door on July 01, 2014.

Section 90 of the Act provides that as the notice to end tenancy was served by way of posting on the unit door on July 01, 2014, the tenant is deemed to have received the notice 3 days later on July 03, 2014.

The Notice restates section 46(4) of the Act which provides that the tenant had 5 days to pay the rent in full or apply for Dispute Resolution. The tenant did not apply to dispute the Notice to End Tenancy within 5 days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

Analysis

I find that the tenant received the notice to end tenancy on July 03, 2014. I accept the landlord's evidence and I find that the tenant neither paid the rental arrears, nor applied to dispute the notice. The tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. I grant the landlord an **order of possession** which must be served on the tenant. Should the tenant fail to comply, the order may be filed for enforcement in the Supreme Court.

As to compensation sought by the landlord, the Proof of Service of the Notice of Direct Request Proceeding document clearly states that service by way of being "posted at" is not to be used "if requesting a Monetary Order." Accordingly, the landlord's application for a monetary order for unpaid rent is hereby dismissed with leave to reapply.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia 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: July 24, 2014

Residential Tenancy Branch

