



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 August 1, 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 August 5, 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 for a month to month tenancy that began on June 1, 2014, for the monthly rent of \$1,000.00 which is payable on the first of each month. The tenancy agreement page 6 lists the Landlord's name and a property manager's name; however, neither person signed the tenancy agreement. The Tenant's name and signature appears on the tenancy agreement; however there is no date listed as to when the Tenant signed this tenancy agreement;
- An Addendum Residential Tenancy Agreement which is signed by the Tenant on May 25, 2014; however, neither the Landlord nor the property manager signed this Addendum;

- A 10 Day Notice to End Tenancy for Unpaid Rent issued on July 19, 2014, with an effective vacancy date of July 29, 2014, due to \$1,000.00 in unpaid rent that was due July 1, 2014.

Documentary evidence filed by the Landlord indicates that the Tenant was personally served the 10 Day Notices to End Tenancy for Unpaid Rent on July 19, 2014, at 6:00 p.m., in the presence of a witness.

Analysis

The Direct Request procedure is based upon written submissions only and requires that the submissions be sufficiently clear, valid and supported by evidence in order to succeed.

After careful consideration of the foregoing, documentary evidence, and on a balance of probabilities, I find the evidence with respect to the tenancy agreement to be lacking. The Landlord submitted copies of a tenancy agreement and addendum that have not been signed by the Landlord or their property manager.

Although oral terms contained in, or form part of, tenancy agreements and may still be recognized and enforced in a participatory hearing, they do not meet the requirements for a Direct Request Proceeding. A signed and dated written tenancy agreement must be submitted as evidence that a tenancy agreement exists when an application is made through the Direct Request process.

Based on the aforementioned I find there to be insufficient evidence to proceed through the direct request process and I dismiss the Landlords' application with leave to reapply.

Conclusion

I HEREBY DISMISS this application, with leave to reapply, through a participatory hearing.

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: August 19, 2014



Residential Tenancy Branch

RTB-136

Now that you have your decision...

All decisions are binding and both landlord and tenant are required to comply.

The RTB website (www.rto.gov.bc.ca) has information about:

- How and when to enforce an order of possession:
Fact Sheet RTB-103: *Landlord: Enforcing an Order of Possession*
- How and when to enforce a monetary order:
Fact Sheet RTB-108: *Enforcing a Monetary Order*
- How and when to have a decision or order corrected:
Fact Sheet RTB-111: *Correction of a Decision or Order*
- How and when to have a decision or order clarified:
Fact Sheet RTB-141: *Clarification of a Decision or Order*
- How and when to apply for the review of a decision:
Fact Sheet RTB-100: *Review Consideration of a Decision or Order* **(Please Note: Legislated deadlines apply)**

To personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Toll-free: 1-800-665-8779
- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at www.rto.gov.bc.ca