



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the "Act"), and deals with an Application for Dispute Resolution by the Landlord for:

1. An Order of Possession – Section 55; and
2. A Monetary Order for unpaid rent – Section 67.

The Landlord's signed proof of service states that the Tenant was served with the Notice of Direct Request Proceeding and supporting documents by posting them on the unit door on August 8, 2014. Section 89 of the Act provides that an application seeking an order of possession may be served on the unit door however this same section does not provide for this method of service where the application seeks other orders, including monetary orders. As a result I find that the application in relation to the order of possession has been served in accordance with the Act and I dismiss the claim for a monetary order with leave to reapply.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

In the Application made August 8, 2014 the Landlord provides the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding;
- A copy of a residential tenancy agreement signed by the Parties indicating a tenancy start date of March 1, 2012 and a monthly rent of \$1,000.00 due on the first day of the month;
- A copy of a 10 day notice to end tenancy for unpaid rent (the "Notice") issued on July 7, 2014 with a stated effective vacancy date of July 17, 2014 for \$1,500.00 in unpaid rent; and

- A proof of service of the Notice showing that the Landlord served the Notice to the Tenant personally on July 7, 2014.

The Tenant did not make an application to dispute the Notice.

Analysis

Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. Section 46 of the Act provides that a tenant may, within 5 days after receiving a notice to end tenancy for unpaid rent, pay the overdue rent, in which case the notice has no effect, or dispute the notice by making an application for dispute resolution. If a tenant does not pay the rent or make an application to dispute the notice, the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the unit by the effective date of the notice. Based on the submissions of the Landlord, I find that the Notice was received by the Tenant. I also find that the Tenant has failed to pay the rent and has not made an application to dispute the Notice. I find therefore that the Landlord is entitled to an Order of Possession.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service** 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: August 18, 2014

Residential Tenancy Branch

