



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUTTON GROUP MEDALLION REALTY LTD
and [tenant name suppressed to protect privacy]

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 four signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on July 31, 2014, the landlord served tenants MC, NC, and WN with the Notice of Direct Request Proceeding, including the landlord's application, by registered mail. Pursuant to section 90 of the Act, the documents were deemed served 5 days later. The landlord submitted another signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 30, 2014, the landlord served tenant SC with the Notice of Direct Request Proceeding, including the landlord's application, by leaving the documents with the tenant.

Based on the written submissions of the landlord, I find that the tenants have been served with the Direct Request Proceeding documents as required by section 89(1) of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit and a monetary order due to unpaid rent?

Background and Evidence

The landlord submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on December 30, 2013, indicating a monthly rent of \$1750 due on the first day of the month, beginning on January 15, 2014;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated July 8, 2014, with a stated effective move out date of July 18, 2014, listing \$3500 in unpaid rent as of July 1, 2014; and
- A signed Proof of Service that the tenants were served the Notice by attaching it to the tenants' door on July 8, 2014. Section 90 of the Act deems the tenants were served on July 11, 2014. Therefore the effective vacancy date, July 18, 2014, is automatically corrected to July 21, 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 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 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 and a monetary order for unpaid rent in the amount of \$3500, as requested by the landlord in their application.

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 tenant, 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.

I grant the landlord a monetary order in the amount of \$3500, pursuant to section 67 of the *Act*, comprised of rent owed, which is enclosed with the landlord's Decision. This order is a legally binding, final order, and should the tenants fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. 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: August 14, 2014

Residential Tenancy Branch

