



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals Ltd.
and [tenant name suppressed to protect privacy]

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 dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on unpaid rent and a monetary Order. The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 25, 2014, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the *Act* determines that a document served by registered mail is deemed to have been served five days later. Based on the written submissions of the landlord, I find that the tenant has been duly served with the Direct Request Proceeding documents on July 30, 2014.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant;
- A copy of a residential tenancy agreement (the Agreement) signed by a representative of the previous landlord of this rental unit on January 31, 2014, indicating a monthly rent of \$800.00 due on the 1st day of the month;
- A tenant ledger reviewing payments owing and payments made from the beginning of this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) with a stated effective vacancy date of July 12, 2014, for \$1,700.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the tenant had failed to pay all rent owed and was served the 10 Day Notice by posting it on the tenant's door, at 10:00 a.m. on July 2, 2014. Section 90 of the *Act* deems the tenant was served on July 5, 2014.

The Notice states that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

I have reviewed all documentary evidence. In this case, the only person to sign the Agreement was a representative of a former landlord of this rental unit. In the absence of the tenant's signature on the Agreement, I am unable to consider the landlord's application for an end to this tenancy and a monetary Order under the direct request process.

In addition, I find the tenant ledger submitted as evidence by the landlord in support of the landlord's application is confusing and does not clearly identify whether the amount claimed as owing is in fact the amount owed at this time. The landlord's tenant ledger identified 20 different entries for the period from May 1, 2014 until July 8, 2014, the final date in that ledger. This ledger appears to identify a series of payments made by the tenant to the landlord, payments that do not appear to have been taken into account in the landlord's application for dispute resolution.

Under these circumstances, I am not satisfied that the landlord has provided sufficient evidence to demonstrate entitlement to an Order of Possession or a monetary Order. I dismiss the landlord's application for dispute resolution with leave to reapply. Should the landlord reapply, I would recommend that the landlord pursue this matter through a participatory hearing.

Conclusion

I dismiss the landlord's application with leave to reapply. 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 05, 2014

Residential Tenancy Branch

