



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 sections 55(4) and 74(2) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession and a monetary Order.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 28, 2014 the Landlord served the female Respondent by posting the Notice of Direct Request Proceeding on the door of the rental unit.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 28, 2014 the Landlord served the male Respondent by posting the Notice of Direct Request Proceeding on the door of the rental unit.

The purpose of serving the Notice of Direct Request Proceeding is to notify each Respondent that a direct request proceeding has been initiated. The Landlord has the burden of proving that each Respondent was properly served with the Notice of Direct Request Proceeding.

The Landlord has applied for a monetary Order which requires that the Landlord serve the Respondent with Notice of Direct Request Proceeding pursuant to section 89(1) of the *Act*. Section 89(1) of the *Act* does not authorize a landlord to serve these documents by posting them on the door. As the Landlord did not establish that the Respondents were served with copies of the Notice of Direct Request Proceeding pursuant to section 89(1) of the *Act*, I am unable to consider the Landlord's application for a monetary Order. On this basis, I dismiss the Landlord's application for compensation for unpaid rent, with leave to reapply on that specific issue.

The Landlord has applied for an Order of Possession which requires that the Landlord serve the Respondent with Notice of Direct Request Proceeding pursuant to section 89(2) of the *Act*. As the Landlord did serve the Respondents with copies of the Notice

of Direct Request Proceeding pursuant to section 89(2) of the *Act*, I find that I am able to consider the Landlord's application for an Order of Possession.

Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession?

Background and Evidence

I have reviewed the following evidence submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each Respondent
- A copy of a residential tenancy agreement that was signed by the female Respondent and which names the male Respondent as an occupant. The agreement indicates that the tenancy began on October 31, 2011 and that rent of \$900.00 is due, in advance, by the last day of the month
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was signed by the Landlord and is dated August 15, 2014, which declares that the Respondents must vacate the rental Tenant by August 28, 2014. The Notice declares the Tenant owes rent of \$730.00.
- A signed copy of Proof of Service of the 10 Day Notice to End Tenancy, in which the Landlord declared that the Notice was personally served to the female Respondent on August 15, 2014, in the presence of a third party, who also signed the Proof of Service.

On the Application for Dispute Resolution, the Landlord declared that 10 Day Notice to End Tenancy for Unpaid Rent was personally served on August 15, 2014.

On the Application for Dispute Resolution, the Landlord declared that the Respondent still owed \$730.00 in rent.

Analysis

On the basis of the written submissions, I find that the female Respondent entered into a tenancy agreement that required her to pay monthly rent of \$900.00 by the last day of each month.

On the basis of the written submissions, I find that rent of \$730.00 for August had not been paid by the time the Landlord filed this Application for Dispute Resolution. I have no evidence to show that this outstanding rent has since been paid.

On the basis of the written submissions, I find that a 10 Day Notice to End Tenancy was personally served to the female Respondent on August 15, 2014, which declared that the Respondents must vacate by August 28, 2014.

I have no evidence to show that the Respondents filed an Application for Dispute Resolution seeking to set aside the Notice to End Tenancy. Pursuant to section 46(5) of the *Act*, I therefore find that the Respondents accepted that the tenancy ended on the effective date of the Notice to End Tenancy. I therefore find that the Landlord is entitled to an Order of Possession.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after service on the female Respondent. This Order may be served on the female Respondent, filed with 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: September 01, 2014

Residential Tenancy Branch

