



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 and utilities.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 3, 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 September 8, 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?

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 the Landlord's Application for Direct Request that lists the Tenant's first name with only one "I" and the Monetary Order Worksheet claiming for \$600.00 in unpaid rent plus \$34.23 in unpaid utilities;
- A copy of the demand letter for payment of the utilities of \$34,23 that was posted to the Tenant's door on June 26, 2014;
- A copy of a residential tenancy agreement which was signed by all parties for a month to month tenancy that commenced on June 1, 2011, for the monthly rent of \$600.00 due in on the 1st of each month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 11, 2014, with an effective vacancy date listed as August 26, 2014, due to \$600.00 in unpaid rent and \$34.23 in unpaid utilities that were due on July 1, 2014.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on August 11, 2014, by registered mail. Canada Post receipts were provided in evidence.

Analysis

Upon review of the Landlord's application for Direct Request and all of their supporting evidence I find the Landlord made a common clerical or spelling error when listing the Tenant's first name with only one "l". Therefore, I amend the style of cause to display the correct spelling with two l's, pursuant with section 64 (3)(c) of the *Act*.

Order of Possession - I have reviewed all documentary evidence and accept that the Tenant has been served with notice to end tenancy as declared by the Landlord. The notice is deemed to have been received by the Tenant on August 16, 2014, five days after it was mailed, and the effective date of the notice is August 26 2014, pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenant has 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 Tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice and I hereby grant the Landlord an Order of Possession.

Monetary Order – The evidence supports that the Tenant failed to pay the rent and utilities that were due on July 1, 2014, in violation of section 26 of the *Act* which provides that a tenant must pay rent and utilities when it is due under the tenancy agreement. As per the aforementioned I approve the Landlord's request for a Monetary Order for **\$634.23**.

Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

The Landlord has been granted an Order of Possession effective **Two (2) Days after service upon the Tenant**. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced as an Order of that Court.

The Landlord has been awarded a Monetary Order in the amount of **\$634.23**. This Order is legally binding and must be served upon the Tenant. In the event that the

Tenant does not comply with this Order it may be filed with the Province of British Columbia Small Claims Court 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 12, 2014

Residential Tenancy Branch

