



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.

The Landlord, or his Agent, submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 18, 2014, the Landlord served each 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 each Tenant is deemed served with the Dispute Resolution Direct Request Proceeding documents on September 23, 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 each Tenant;
- A copy of the Landlord's Application for Direct Request listing two names as Landlord and the Monetary Order Worksheet listing a claim of \$1,200.00 for unpaid rent comprised of \$800.00 owed from August 1, 2014 rent plus \$1,200.00 owed for September 1, 2014 rent which actually totals \$2,000.00 not \$1,200.00 as claimed;
- A copy of a residential tenancy agreement which was signed by all parties for a

fixed term tenancy that commenced on April 11, 2013, for occupancy on May 1, 2013, and was scheduled to end on April 30, 2014. A notation on the tenancy agreement indicated that the tenancy continued on a month to month basis as of May 1, 2014, for the monthly rent of \$1,200.00 which is payable on the first of each month;

- Letters issued to the Tenants on August 7, 2014, September 2, 2014, September 4, 2014, and a copy of a bank statement; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, September 2, 2014, with an effective vacancy date of September 30, 2014, due to \$1,200.00 in unpaid rent that was due September 1, 2014.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on September 2, 2014, at 8:30 p.m. when it was posted to the Tenants' door, in the presence of a witness.

Analysis

The Direct Request procedure is based upon written submissions only and requires that the submissions be sufficiently clear, valid and supported by evidence in order to succeed. Evidence must be submitted to prove that a tenancy agreement exists between the named applicants and the named respondent(s). If the applicant is an agent for the Landlord, then documentary evidence must be submitted to prove the applicant has the authority to act as the Landlord's agent and prove that the Tenants were served notice assigning the agent to act on the Landlord's behalf.

Notwithstanding the tenancy agreement making several references to there being an Agent, the second Applicant to this dispute is not named as Agent or Landlord on the tenancy agreement the 10 Day Notice, or any supporting documents that have been submitted as evidence. Nor is there any evidence that this person has been delegated authority to act as Agent for the Landlord. Based on the aforementioned I amend the style of cause on the Orders to remove B.M. as a named applicant to this dispute, pursuant to section 64 of the Act.

Order of Possession

I have reviewed all documentary evidence and accept that the Tenants have been served with notice to end tenancy as declared by the Landlord. The notice is deemed to have been received by the Tenants on September 5, 2014, the third day after it was

posted to the Tenants' door, and the effective date of the notice is September 15, 2014, pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenants have 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 and I hereby grant the Landlord an Order of Possession.

Monetary Order

The evidence supports that the Tenants have failed to pay rent in accordance with section 26 of the *Act* which stipulates that a tenant must pay rent when it is due under the tenancy agreement. As per the aforementioned I find the Landlord has met the burden of proof and I award him a Monetary Order for **\$1,200.00**.

Conclusion

The Landlord has been granted an Order of Possession effective **Two (2) Days after service upon the Tenants**. In the event that the Tenants do 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 **\$1,200.00**. This Order is legally binding and must be served upon the Tenants. In the event that the Tenants do 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 24, 2014

Residential Tenancy Branch

