



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 deals with an Application for Dispute Resolution by the Landlord for:

1. An Order of Possession – Section 55; and
2. A Monetary Order for unpaid rent – Section 67.

Given the Landlord's signed proof of service, I find that the Landlord served the Tenant with the Notice of Direct Request Proceeding by registered mail on October 21, 2014 in accordance with the Act.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to a monetary order for unpaid rent?

Background and Evidence

In the Application made October 21, 2014 the Landlord claims unpaid rent in the amount of \$4,400.00 and provides the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding;
- A copy of a residential tenancy agreement signed by the Parties indicating a tenancy start date of May 1, 2014 and a monthly rent of \$1,100.00 due on the first day of the month;

- A Monetary Worksheet indicating that the particulars of the monetary amount claimed are on Attachment #1. No document can be found identified as Attachment #1 and no document setting out the particulars on the amount being claimed is provided ;
- A copy of a Decision dated October 2, 2014 that indicates a previous application by the Landlord for unpaid rent of \$1,100.00 that was not paid for August 2014 and indication that the Landlord was also then claiming \$1,100.00 for unpaid utilities. It is noted that this previous application was dismissed with leave to reapply;
- A copy of a 10 day notice to end tenancy for unpaid rent (the "Notice") issued on October 10, 2014 with a stated effective vacancy date of October 20, 2014 for \$4,400.00 in unpaid rent; and
- A proof of service of the Notice showing that the Landlord served the Notice to the Tenant in person on October 10, 2014.

The Tenant did not make an application to dispute the Notice.

Analysis

Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. Section 46 of the Act provides that a tenant may, within 5 days after receiving a notice to end tenancy for unpaid rent, pay the overdue rent, in which case the notice has no effect, or dispute the notice by making an application for dispute resolution. If a tenant does not pay the rent or make an application to dispute the notice, the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the unit by the effective date of the notice. Based on the submissions of the Landlord, I find that the Notice was received by the Tenant and that the Tenant has not made an

application to dispute the Notice. I find therefore that the Landlord is entitled to an Order of Possession.

Given that there are no particulars on the monetary amount being claimed, that the Landlord provided a copy of a previous Decision indicating a claim for unpaid August 2014 rent only and an equal amount for utilities, and as the amount requested in this application is greater than what it would be for unpaid rent for August, September and October 2014, I find that the claim is contradicted by the evidence provided and I dismiss the monetary claim with leave to reapply.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service** on the Tenant. Should the Tenant fail to comply with the order, the order may be filed in 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: October 30, 2014

Residential Tenancy Branch

