



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 October 01, 2014 the Landlord sent the Notice of Direct Request Proceeding to the female Tenant, via registered mail. The Landlord submitted a copy of a Canada Post Receipt that indicates a package was mailed to the rental unit on that date. On the basis of this information and in the absence of evidence to the contrary, I accept that the female Tenant was served with the Notice of Direct Request Proceeding, pursuant to section 89 of the *Act*.

The Landlord has applied for a monetary Order which requires that the Landlord serve each respondent with Notice of Direct Request Proceeding pursuant to section 89(1) of the *Act*. In the absence of a Proof of Service of the Notice of Direct Request Proceeding which declares how/when the male Tenant was served with the Notice of Direct Request Proceeding, I am unable to conclude that the male Tenant was served with the Notice of Direct Request Proceeding, pursuant to section 89(1) of the *Act*.

As the Landlord has failed to establish that both Tenants were served with copies of the Notice of Direct Request Proceeding pursuant to section 89(1) of the *Act*, I find that I am unable to consider the Landlord's application for a monetary Order that names both Tenants. 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 each respondent with Notice of Direct Request Proceeding pursuant to section 89(2) of the *Act*. Section 89(2)(c) of the *Act* authorizes a landlord to serve the Notice of Direct Request Proceeding by leaving it at a tenant's residence with an adult who apparently resides with the tenant. As the Landlord did serve the female Tenant with copies of the Notice of Direct Request Proceeding by registered mail, I find it

reasonable to conclude that the male Tenant was also served with those documents at that time, pursuant to section 89(2)(c) of the *Act*. I therefore find that I am able to consider the Landlord's application for an Order of Possession.

Issue(s) to be Decided

Is the Landlord 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 the female Tenant
- A copy of a residential tenancy agreement for the rental unit, which names both Tenants but is only signed by the female Tenant, which indicates that the tenancy began on August 01, 2014 and that the rent of \$1,475.00 is due by the first day of the month
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which appears to be signed by the Landlord and is dated September 18, 2014, which declares that the Tenant must vacate the rental unit by September 28, 2014 unless the Tenant pays the rent within five days of receiving the Notice or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice. The Notice indicates that the Tenant owes rent, in the amount of \$2,000.00, that was due on September 01, 2014
- A signed copy of Proof of Service of the 10 Day Notice to End Tenancy, in which the Landlord declared that the Notice was posted on the door of the rental unit on September 18, 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 posted on September 18, 2014. On the Monetary Order Worksheet the Landlord declared that rent of \$2,500.00 is outstanding for August and September of 2014.

Analysis

Based on the tenancy agreement submitted in evidence, I find that the female Tenant entered into a tenancy agreement that required the female Tenant to pay monthly rent of \$1,475.00 by the first day of each month.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant had not paid all of the rent that was due for August and

September of 2014 by the time the Landlord filed this Application for Dispute Resolution. I have no evidence to show that it has been paid in full since the Application was filed.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that a 10 Day Notice to End Tenancy was posted on the door of the rental unit on September 18, 2014.

I have no evidence to show that the Tenant 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 Tenant has accepted that the tenancy ended ten days after the Tenant received the Notice to End Tenancy.

Conclusion

I find that the Landlord is entitled to an Order of Possession that is effective two days after service on the Tenant. This Order may be served on the Tenant, 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: October 15, 2014

Residential Tenancy Branch

