



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR, MNR

Introduction

The landlord applied for an Order of Possession and a Monetary Order for unpaid rent under the Direct Request Procedure, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act").

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 20, 2014 the landlord served the Notice of Direct Request Proceeding and supporting documents the tenant by registered mail sent to the rental unit. The landlords provided the registered mail receipt, including tracking number, as proof of service. Since the landlord filed this Application on October 21, 2014 the declared date for service was obviously incorrect. A search of the tracking number showed that the registered mail was sent October 21, 2014 and successfully delivered to the tenant on October 28, 2014. Therefore, I was satisfied that the tenant has been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and monetary compensation for unpaid rent?

Background and Evidence

The landlord submitted copies of the following evidentiary material:

- A residential tenancy agreement which was signed by the tenant and former property manager on October 26, 2013 for a tenancy that commenced November 1, 2013 for the monthly rent of \$825.00 due on the 1st day of every month;
- A 10 Day Notice to End Tenancy for Unpaid Rent which was issued on October 2, 2014 with a stated effective vacancy date of October 13, 2014, for \$825.00 in unpaid rent as of October 1, 2014;
- A Proof of Service of the 10 Day Notice indicating the landlord posted the 10 Day Notice on the tenant's door on October 2, 2014 in the presence of a witness;
- A Monetary Order worksheet indicating the entire amount of \$825.00 remains outstanding as of the date of filing; and,

- A Letter declaring that the landlord's management company changed to that named on this Application.

The 10 Day Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

I have reviewed all documentary evidence and I find the tenant is deemed to have received the 10 Day Notice three days after it was posted on the door, pursuant to section 90 of the Act. As such, the effective date of the 10 Day Notice automatically changes to read October 15, 2014 under section 53 of the Act.

I accept the evidence before me that the tenant failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the Act. Accordingly, I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy would end on the effective date of the Notice. Therefore, I find that the tenancy ended October 15, 2014 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenant.

I find the landlord is entitled to monetary compensation for unpaid rent in the amount of \$825.00 for the month of October 2014. The landlord is provided a Monetary Order for this amount to serve upon the tenant. The Monetary Order may be filed in Provincial Court (Small Claims) to enforce as an Order of that court. The security deposit remains in trust to be administered in accordance with the Act.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlords are provided a Monetary Order in the amount of \$825.00 to serve upon the tenant.

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

