



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 submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 15, 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 October 20, 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 seeking \$650.00 and the Monetary Order Worksheet indicating the Landlord was claiming \$600.00 for October unpaid rent;
- A copy of a residential tenancy agreement which was signed by all parties for a fixed term tenancy that commenced on June 1, 2014 and is set to end on May 31, 2015, for the monthly rent of \$600.00 due on or in advance of the 1st of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities which was issued on, October 2, 2014, with an effective vacancy date listed as October 12, 2014, due to \$600.00 in unpaid rent and \$50.00 in unpaid utilities that were due on October 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 October 2, 2014, when it was posted to the Tenant's door, in the presence of a witness.

Analysis

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 October 5, 2014, three days after it was posted to the Tenant's door, 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 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.

The Landlord has filed an Application seeking a Monetary Order for \$650.00 and provided a 10 Day Notice showing unpaid rent of \$600.00 plus \$50.00 in unpaid utilities, which total \$650.00. The Landlord also submitted a Monetary Order worksheet which listed only the unpaid rent for October of \$600.00. The tenancy agreement does not stipulate that the Tenant must pay a flat rate for utilities. The Landlord did not submit copies of the actual utility bill nor did they submit proof that the Tenant was issued a written demand seeking payment for the utilities.

Based on the above, and in the presence of the undisputed 10 Day Notice, I find the Landlord has met the burden of proof to establish that at the time the 10 Day Notice was issued the Tenant owed \$600.00 in unpaid rent. There is insufficient evidence to support a claim for unpaid utilities. Accordingly, I grant the Landlord a Monetary Order for **\$600.00** and dismiss the balance of \$50.00 for utilities, without leave to reapply. .

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 issued an Order of Possession effective **two days after service on the Tenant**. 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 Supreme Court and enforced as an Order of that Court.

The Landlord has been awarded a Monetary Order in the amount of **\$600.00**. 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: October 21, 2014

Residential Tenancy Branch

