



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

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.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 24, 2014, at 10:17 a.m. the Landlord served the Tenant with the Notice of Direct Request Proceeding by posting it to the Tenant's door. 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 27, 2014, three days after they were posted, in accordance with section 90 of the Act.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

I have carefully reviewed the following relevant 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 which shows a different spelling for the Tenant's last name than the tenancy agreement and 10 Day Notice;
- the Monetary Order Worksheet indicating that the Tenant failed to pay the October rent of \$1,465.00;

- A copy of a residential tenancy agreement which was signed by all parties for a fixed term tenancy that began on September 1, 2014 and is set to end on August 31, 2015, for the monthly rent of \$1,465.00 due on the first of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, October 14, 2014, with an effective vacancy date listed as October 27, 2014 due to \$1,465.00 in unpaid rent that was due on October 1, 2014.

Documentary evidence filed by the Landlord indicates that the Tenant was personally served the 10 Day Notice to End Tenancy for Unpaid Rent on October 14, 2014 at 4:39 p.m., in the presence of a witness. The Tenant signed the proof of service document acknowledging receipt of the Notice.

Analysis

Upon review of the Landlord's application I note that the Landlord made a clerical error when spelling the Tenant's last name, omitting an "h". The tenancy agreement, 10 Day Notice, and Notice of Hearing documents were all created showing the correct spelling of the Tenant's last name, including the "h". Therefore, I find that it is reasonable to conclude that the Tenant ought to have known that this matter pertained to him and that the Landlord has simply made a clerical error. Accordingly, I hereby amend the style of cause of this decision to show the correct spelling of the Tenant's last name, pursuant to section 64(3)(c) of the Act.

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 was received by the Tenant on October 14, 2014, and the effective date of the notice is October 27, 2014, pursuant to section 46 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.

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 granted an Order of Possession effective **Two (2) Days after service 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.

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 29, 2014

Residential Tenancy Branch

