



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 an *ex parte* Direct Request Proceeding, pursuant to subsection 55(4) of the *Residential Tenancy Act* (the “Act”), and dealt with an Application for Dispute Resolution by the landlord for an order of possession based on unpaid rent and a monetary order.

The landlord submitted signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on 14 October 2014, the landlord sent each of the respondents the Notice of Direct Request Proceeding by registered mail. The landlord provided a copy of the Canada Post customer receipt containing the tracking numbers to confirm this mailing. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the Act, I find that the respondents have been deemed served with the Direct Request Proceeding documents on 19 October 2014, the fifth day after their registered mailing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent pursuant to section 55 of the Act? Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the Act?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to the respondents;

- A copy of a residential tenancy agreement which was signed by the landlord and RP (and not NG) on 1 July 2014, indicating a monthly rent of \$2,000.00 due on the 1st day of the month for a tenancy commencing on 1 July 2014;
- A Monetary Order Worksheet showing the rent owing and paid during this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) posted on the rental unit door on 2 October 2014, with a stated effective vacancy date of 12 October 2014, for \$4,000.00 in unpaid rent.

The landlord provided a Proof of Service for Notice to End Tenancy (the “Proof of Service”). In this Proof of Service, the landlord indicates that he is serving the tenant RP. The landlord has checked off boxes indicating that he hand delivered a copy to the person named in the Proof of Service and left a copy with an adult who apparently lives with the tenant. In the additional details, the landlord writes “Order left with [NG] listed as spouse on the rental application”. The witness declaration for the Proof of Service indicates that the notice was delivered to “[RP]/[NG]”.

The 10 Day Notice states that the tenant had five days from the date of service to pay the rent in full or apply for dispute resolution or the tenancy would end. The tenant did not apply to dispute the 10 Day Notice within five days from the date of service.

Preliminary Matters

The landlord have named two respondents to this proceeding, RP and NG. Only RP, and not NG, is a signatory to the tenancy agreement. The landlord notes in his Proof of Service that NG was a spouse on the rental application. From this evidence I conclude that NG was not privy to the tenancy agreement. Accordingly, I dismiss the application against NG without liberty to reapply.

Analysis

I have reviewed all documentary evidence and accept the tenant RP has been served with 10 Day Notice as declared by the landlord.

I accept the evidence before me that the tenant RP has failed to pay the rent owed in full within the five days granted under subsection 46(4) of the Act.

Based on the foregoing, I find that the tenant RP is conclusively presumed under subsection 46(5) of the Act to have accepted that the tenancy ended on the effective date of the 10 Day Notice, 12 October 2014.

Therefore, I find that the landlord is entitled to an order of possession and a monetary order of \$3,900.00 (for unpaid rent owing from September and October 2014) against the tenant RP.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an order of the Supreme Court of British Columbia.

Pursuant to section 67 of the Act, I find that the landlord is entitled to a monetary order in the amount of \$3,900.00 for rent owed for September and October 2014. The landlord is provided with these Orders in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as orders of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: October 22, 2014

Residential Tenancy Branch