



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Castera Investments Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR

This matter 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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 18, 2014, the landlord personally served each tenant with the Notice of Direct Request Proceeding.

Issues to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding;
- A copy of the residential tenancy agreement which was signed by the parties on October 01, 2013, indicating that the tenants are obligated to pay \$810.00 in rent in advance on the first day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on November 02, 2014, with a stated effective vacancy date of November 15, 2014, for \$810.00 in unpaid rent effective November 01, 2014, and
- A copy of the Proof of Service of the Notice to End Tenancy showing that the landlord served the notice to end tenancy on the tenants by way of posting on the unit door on November 02, 2014.

Section 90 of the Act provides that as the notice to end tenancy was served by way of posting on the unit door on November 02, 2014, the tenants are deemed to have received the notice 3 days later on November 05, 2014.

The Notice restates section 46(4) of the Act which provides that the tenants had 5 days to pay the rent in full or apply for Dispute Resolution. The tenants did not apply to dispute the Notice to End Tenancy within 5 days from the date of service and the landlord alleged that the tenants did not pay the rental arrears.

Analysis

I find that the tenants received the notice to end tenancy on November 05, 2014. I accept the landlord's evidence and I find that the tenants neither paid the rental arrears, nor applied to dispute the notice. The tenants are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. I grant the landlord an **order of possession** which must be served on the tenants. Should the tenants fail to comply, the order may be filed for enforcement in the Supreme Court.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenants. This order must be served on the tenants. Should the tenants fail to comply with the order, the order may be filed in 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: November 25, 2014

Residential Tenancy Branch

