



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Whistler Housing Authority / Mountain Country Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR

This matter proceeded by Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with the landlord's Application for Dispute Resolution for an order of possession and a monetary order for unpaid rent. The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding, declaring that on October 30, 2014, the landlord served the Notice of Direct Request Proceeding by Registered Mail. Section 90 of the Act provides that a document served in this manner is deemed to have been received on the 5th day after service. Based on the written submissions of the landlord, I find that the tenant has been duly served with the Direct Request Proceeding documents.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

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 December 24, 2012, indicating that the tenant is obligated to pay \$785.00 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 October 08, 2014, with a stated effective vacancy date of October 21, 2014, showing \$820.00 in unpaid rent effective October 01, 2014, and
- A copy of the Proof of Service of the Notice to End Tenancy showing that the landlord served the Notice by posting on the unit door on October 08, 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 October 08, 2014, the tenant is deemed to have received the Notice 3 days later on October 11, 2014. The Notice restates section 46(4) of the

Act which provides that the tenant had 5 days to pay the rent in full or apply for Dispute Resolution. The tenant did not apply to dispute the Notice within 5 days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

Analysis

I find that the tenant received the notice to end tenancy on October 11, 2014. I accept the landlord's evidence and I find that the tenant neither paid the rental arrears, nor applied to dispute the notice. The tenant is 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 tenant. Should the tenant fail to comply, the order may be filed for enforcement in the Supreme Court.

I accept the evidence before me that the tenant has failed to pay a total of \$785.00 in rent effective October 01, 2014. I find that the landlord is entitled to recover the rental arrears and I grant the landlord a **monetary order** in the amount of **\$785.00**. I find that that amount of \$820.00 shown on the 10 day notice is comprised of \$785.00 for rent, and \$35.00 for parking. Compensation that may be sought in a direct request application is limited to rent and utilities. Accordingly, the aspect of the application concerning unpaid parking is hereby dismissed with leave to reapply.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$785.00**. This order may be served on the tenant, filed in the 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: November 13, 2014

Residential Tenancy Branch

