



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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on 16 December 2014, the landlord served the tenant JB with the Notice of Direct Request Proceeding by registered mail. The landlord provided a copy of the Canada Post customer receipt containing the tracking number 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 tenant JB has been deemed served with the Direct Request Proceeding documents on 21 December 2014, the fifth day after their registered mailing.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on 17 December 2014, the landlord served the tenant HT with the Notice of Direct Request Proceeding by registered mail. The landlord provided a copy of the Canada Post customer receipt containing the tracking number 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 tenant HT has been deemed served with the Direct Request Proceeding documents on 22 December 2014, the fifth day after their registered mailing.

Issues 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:

- Copies of the Proofs of Service of the Notices of Direct Request Proceeding served to each of the tenants;
- a copy of a residential tenancy agreement which was signed by the tenants on 15 April 2014, indicating a monthly rent of \$950.00 due on the 1st day of the month for a tenancy commencing on 1 May 2014;
- a Monetary Order Worksheet showing the rent owing during this tenancy: November Rent of \$15.00, and December Rent of \$950.00; and
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) posted on the tenants' door at 1406 on 2 December 2014, with a stated effective vacancy date of 12 December 2014, for \$965.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenants were served by posting the 10 Day Notice to the tenants' door at 1406 on 2 December 2014. This posting was witnessed. In accordance with sections 88 and 90 of the Act, the tenants were deemed served with this 10 Day Notice on 5 December 2014, three days after its posting.

The 10 Day Notice states that the tenants 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 tenants did not apply to dispute the 10 Day Notice within five days from the date of service.

Analysis

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

I accept the evidence before me that the tenants have 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 tenants are conclusively presumed under subsection 46(5) of the Act to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, 15 December 2014.

Therefore, I find that the landlord is entitled to an order of possession and a monetary order of \$965.00 for unpaid rent owing from November and December 2014.

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 \$965.00 for rent owed for November and December 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: December 23, 2014

Residential Tenancy Branch

