



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPILANO PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted in response to a Landlord's Application for Direct Request for an Order of Possession and a Monetary Order for unpaid rent, pursuant to Section 55(4) of the *Residential Tenancy Act* (the "Act").

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding documents which declares that on December 24, 2014 the Landlord served the Tenant with the documents by registered mail to the Tenant's rental suite, pursuant to Section 89(1) (c) of the Act.

The Landlord provided a copy of the Canada Post tracking receipt as evidence for this method of service. Section 90(a) of the Act provides that a document is deemed to have been received five days after it is mailed. A party cannot avoid service through a failure or neglect to pick up mail or use this reason alone as grounds for a review of this decision. As a result, I find that the Tenant was deemed served with Notice of Direct Request Proceeding on December 29, 2014.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession for unpaid rent?
- Has the Landlord established a monetary claim for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement signed by the Landlord and the Tenant on January 21, 2013 for a tenancy commencing on February 1, 2013. The tenancy agreement establishes that rent was payable at the start of the tenancy in the amount of \$725.00 on the first day of each month;

- A Notice of Rent Increase, dated June 27, 2014 showing the rent at the time was \$725.00 and was being increased by \$10.00 to \$735.00, payable by the Tenant starting on October 1, 2014;
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on December 2, 2014 with an effective vacancy date of December 15, 2014 due to \$735.00 in unpaid rent due on December 1, 2014;
- A copy of the Proof of Service of the Notice which shows the Landlord served the Notice to the Tenant on December 2, 2014 by attaching it to the Tenant's door with a witness who signed to verify this method of service; and
- The Landlord's Application for Direct Request made on December 23, 2014 and the Monetary Order Worksheet claiming unpaid rent for December, 2014.

Analysis

I accept that during the tenancy the rent amount payable under this tenancy changed from \$725.00 to \$735.00 through a Notice of Rent Increase issued to the Tenant in 2013 in accordance with the Act.

I have reviewed the remainder of the documentary evidence and I accept that the Tenant was served with the Notice on December 2, 2014, which complied with the Act, by attaching it to the Tenant's door with a witness who verified this method of service. Section 90(c) of the Act states that documents served this way are deemed to have been received three days after being attached to the door. Therefore, I find that the Tenant was deemed to be served the Notice on December 5, 2014.

I accept the evidence before me that the Tenant failed to dispute the Notice or pay the outstanding rent on the Notice within the five days provided under Section 46(4) of the Act. Therefore, I find that the Tenant is conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on the vacancy date of the Notice. As a result, the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the Landlord effective **2 days after service on the Tenant**. This order may then be filed and enforced in the Supreme Court as an order of that court.

I further grant a Monetary Order in the amount of **\$735.00** in favor of the Landlord pursuant to Section 67 of the Act. This order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) 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: December 30, 2014

Residential Tenancy Branch

