



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory matter was conducted by way of a direct request proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the “Act”), via the documentary submissions only of the landlords, and dealt with an application for dispute resolution by the landlords for an order of possession for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”).

The landlords submitted two signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on November 25, 2014, the landlord served both tenants with the Notice of Direct Request Proceeding, including the landlords’ application, by leaving the documents with tenant RW.

Section 89 of the Act requires that each respondent be served with the application for dispute resolution by leaving the documents with that person or by registered mail. In this case, only tenant RW was served by personal service, and based on the above and the written submissions of the landlord, I find that that tenant RW only was served with the Direct Request Proceeding documents as required by section 89(1) of the Act. Accordingly, I proceeded with the landlords’ application against and regarding tenant RW only.

Issue(s) to be Decided

Are the landlords entitled to an order of possession for the rental unit and a monetary order due to unpaid rent?

Background and Evidence

The landlords submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on August 27, 2013, indicating a monthly rent of \$1330 due on the first day of the month, beginning on September 1, 2013;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated November 5, 2014, with a stated effective move out date of November 15, 2014, listing \$1330 in unpaid rent as of November 1, 2014; and
- A signed Proof of Service that the tenants were served the Notice by leaving it with the tenants on November 5, 2014.

The Notice stated that the tenants had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

I have no evidence before me that the tenants paid the rent listed or filed an application for dispute resolution to dispute the Notice.

Analysis

I have reviewed the landlords' documentary evidence and accept that the tenant has been served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities as submitted by the landlords.

I accept the landlords' documentary evidence that the tenant failed to pay the rent owed in full within the 5 days granted under section 46(4) of the *Act*.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice. Therefore, I find that the landlords are entitled to an order of possession for the rental unit and a monetary order for unpaid rent in the amount of \$1330.

Conclusion

Pursuant to section 55(4)(b) of the *Act*, I grant the landlords an order of possession for the rental unit effective two days after service on the tenant, which is enclosed with the landlords' Decision. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court should the tenant fail to comply with the terms of the order of possession. The tenant is advised that costs of such enforcement may be recovered from the tenant.

I grant the landlords a monetary order in the amount of \$1330, pursuant to section 67 of the *Act*, comprised of rent owed, which is enclosed with the landlords' Decision. This

order is a legally binding, final order, and should the tenant fail to pay the landlords this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement may be recovered from the tenant.

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 9, 2014

Residential Tenancy Branch

