



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes OPR MNR

Introduction

This hearing 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 Landlords for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 9, 2014, the Landlords served the Tenant by registered mail. Canada Post receipts were provided in the Landlord's evidence. Based on the submissions of the Landlords I find the Tenant was deemed served notice of this proceeding on December 14, 2014, five days after they were mailed, in accordance with section 90 of the Act.

Issue(s) to be Decided

Does this application meet the requirements of the Direct Request process?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of the Landlord's Application for Direct Request which indicates that co-tenant P.W. moved out of the unit;
- A Monetary Order Worksheet indicating the Landlord is seeking \$4,800.00 in accumulated unpaid rent from April 2014 to November 2014;
- A tenant ledger spreadsheet which indicates the Tenant has paid \$400.00 towards the \$800.00 rent from January to November 2014;

- A copy of a residential tenancy agreement which was signed by all parties for a fixed term tenancy that commenced on March 1, 2012, and switched to a month to month tenancy after 12 months. The Tenants were required to pay the monthly rent of \$800.00 due on or before the 1st of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, November 20, 2014, with an effective vacancy date listed as November 30, 2014, due to \$4,800.00 in unpaid rent that was due on November 1, 2014.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on November 20, 2014, at 1:45 p.m. when it was personally served to the Tenant, in the presence of a witness.

Analysis

The Direct Request procedure is based upon written submissions only and requires that the submissions be sufficiently clear, valid and supported by evidence in order to succeed.

In this case there is evidence that the tenancy began with two co-tenants and that one co-tenant vacated the property in 2013. The remaining Tenant continued to reside in the rental unit paying only \$400.00 per month towards rent since January 2014. A pattern has been established of the Tenant paying \$400.00 instead of \$800.00 per month for 11 months. There was no evidence before me that would indicate that the Tenant was notified prior to the November 20, 2014 10 Day Notice, that the Landlord had decided to demand payment of the additional \$400.00 per month.

Based on the foregoing, I find that a conference call hearing is required in order to determine the full details of the Applicant's claim.

Conclusion

I HEREBY FIND that a conference call hearing is required in order to determine the merits of this Application for Dispute Resolution.

Notices of reconvened hearing are included with this decision for the Landlord to serve to the Tenants within 3 days of receipt of this decision, accordance with section 89 of the Act.

Each party must serve the other and the Residential Tenancy Branch with any evidence that they intend to rely upon at the new hearing. Fact sheets are available at <http://www.rto.gov.bc.ca/content/publications/factSheets.aspx> <http://www2.gov.bc.ca/gov/topic.page?id=89BBA00FDFB54BC8BDE34C86410E1791> that explains evidence and service requirements. If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

Lower Mainland: 604-660-1020

Victoria: 250-387-1602

Elsewhere in BC: 1-800-665-8779

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 15, 2014

Residential Tenancy Branch

