



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

and [tenant name suppressed to protect privacy]

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 Landlord for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 26, 2014, the Landlord served the Tenant by registered mail. Canada Post receipts were provided in the Landlord's evidence. Based on the written submissions of the Landlord, and upon review of the Canada Post tracking website, I find that the Tenant was sufficiently served with the Dispute Resolution Direct Request Proceeding documents on November 27, 2014.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order?

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 seeking \$2,612.50 in unpaid rent and the Monetary Order Worksheet indicating the Landlord was seeking \$2,087.50 for accumulated unpaid rent up which included November 1 2014 rent. The amount listed on the Monetary Order Worksheet was comprised of \$487.50 that was Due August 1, 2014, \$800.00 that was due October 1, 2014, plus \$800.00 that was due November 1, 2014;
- A copy of a residential tenancy agreement which was signed by both parties for a fixed term tenancy that commenced on September 1, 2014 and is set to switch to a month to month tenancy after August 31, 2015. The current monthly rent of \$800.00 is 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 7, 2014, with an effective vacancy date listed as November 17, 2014, due to \$2,612.50 in unpaid rent that was due on November 1, 2014.

Documentary evidence filed by the Landlord indicates that the Tenant was personally served the 10 Day Notice to End Tenancy for Unpaid Rent on November 7, 2014, at 11:45 a.m. The Tenant signed the proof of service document acknowledging receipt of the 10 Day Notice.

Analysis

Order of Possession - I have reviewed all documentary evidence and accept that the Tenant has been served with notice to end tenancy as declared by the Landlord. The notice was received by the Tenant on November 7, 2014, and the effective date of the notice is November 17, 2014, pursuant to section 46 of the *Act*. I accept the evidence before me that the Tenant has 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 and I hereby grant the Landlord an Order of Possession.

Monetary Order – 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.

After careful consideration I find the evidence before me to be lacking as it pertained to the dollar amount the Landlord was seeking for the monetary order for unpaid rent. I make this finding in part because the Landlord's application filed November 24, 2014, indicates they were applying for \$2,612.50 in unpaid rent; however, the monetary order worksheet submitted by the Landlord indicates that the amount the Tenant owed for rent up to and including the November 1, 2014 rent was only \$2,087.50.

Based on the contradictory evidence, I find that although it is evident that the Tenant owes money for unpaid rent, the Landlord submitted insufficient evidence to prove the actual amount owed. Accordingly, I dismiss the Landlord's request for a monetary order, with leave to reapply.

Conclusion

The Landlord has been granted an Order of Possession effective **Two (2) Days after service upon the Tenant**. In the event that the Tenant does not comply with this Order

it may be filed with the Province of British Columbia Supreme Court and enforced as an Order of that Court.

The Landlord's request for a Monetary Order is dismissed, with leave to reapply.

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: January 08, 2015

Residential Tenancy Branch

