



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Amacon Property Management Services Incorporated
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the “Act”), and deals with an Application for Dispute Resolution by the Landlord for:

1. An Order of Possession – Section 55; and
2. A Monetary Order for unpaid rent – Section 67.

Given the Landlord's signed proof of service, I find that the Landlord served the first named Tenant in person with the Notice of Direct Request Proceeding and all supporting documents on December 22, 2014 in accordance with the Act.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to a monetary order for unpaid rent?

Background and Evidence

In the Application made December 17, 2014 the Landlord submits in the details that the Tenant owes \$1,500.00 for the non-payment of rent for November and December 2014. The Landlord claims this amount and provides the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding;

- A copy of a residential tenancy agreement signed by the Landlord and the first named Respondent indicating a tenancy start date of September 15, 2014 and a monthly rent of \$750.00 due on the first day of the month;
- A copy of a 10 day notice to end tenancy for unpaid rent (the “Notice”) issued on December 2, 2014 with a stated effective vacancy date of December 14, 2014, automatically corrected to December 15, 2014 for \$750.00 in unpaid rent due December 1, 2014; and
- A proof of service of the Notice showing that the Landlord served the Notice to the Tenant on October 15, 2014 by posting the Notice on the door.

Analysis

Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. Section 46 of the Act provides that a tenant may, within 5 days after receiving a notice to end tenancy for unpaid rent, pay the overdue rent, in which case the notice has no effect, or dispute the notice by making an application for dispute resolution. If a tenant does not pay the rent or make an application to dispute the notice, the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the unit by the effective date of the notice. Based on the submissions of the Landlord, I find that the Notice was deemed received by the Tenant on December 5, 2014. I also find that the Tenant has failed to pay the rent as set out in the Notice and has not made an application to dispute the Notice within the time required. As the Notice is effective in ending the tenancy, I find the Landlord is entitled to an Order of Possession.

The Landlord’s submission that rent is unpaid for November 2014 is in conflict with the evidence submitted and contained in the Notice that sets out only one month’s rent owing as of December 1, 2014. In order to resolve the conflict, I find that the Landlord has only substantiated its claim to the amount set out in the Notice of **\$750.00**. As the

tenancy agreement does not include the signature for the second named Respondent and as the Landlord did not provide any evidence of service of the application and notice of hearing on the second named Respondent I make this monetary order only in relation to the first named Respondent.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service** on the Tenant. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the Landlord an order under Section 67 of the Act for the amount of **\$750.00**. If necessary, this order may be filed in the Small Claims Court 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: January 08, 2015

Residential Tenancy Branch

