



Dispute Resolution Services

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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 landlord, and dealt with an application for dispute resolution by the landlord 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 landlord submitted a signed proof of service of the notice of direct request proceeding which declares that on January 21, 2015, the landlord served the tenant with the Notice of Direct Request Proceeding, including the landlord’s application, by leaving the documents with the tenant.

Based on the written submissions of the landlord, I find that the tenant has been served with the direct request proceeding documents as required by section 89(1) of the Act.

Issue(s) to be Decided

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

Background and Evidence

The landlord submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties, indicating a monthly rent of \$1000 due on the 1st day of the month, beginning on July 15, 2014;

- A copy of a Notice which was dated January 3, 2015, with a stated effective move out date of January 13, 2015, listing \$1000 in unpaid rent as of January 1, 2015; and
- A signed proof of service that the tenant was served the Notice by attaching it to the tenant's door on January 3, 2015. Section 90 of the Act deems the tenant was served on January 6, 2015. Therefore the effective vacancy date, January 13, 2015, is automatically corrected to January 16, 2015, pursuant to section 53 of the Act.

The Notice stated that the tenant had 5 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 tenant paid the rent listed or filed an application for dispute resolution to dispute the Notice.

The landlord's monetary claim is \$1700, including unpaid rent of \$700 for November 2014; however, the landlord did not include this amount in her Notice to the tenant.

Analysis

I have reviewed the landlord's documentary evidence and accept that the tenant has been served with a 10 Day Notice as submitted by the landlord.

I accept the landlord's 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 landlord is entitled to an order of possession for the rental unit and a monetary order for unpaid rent as listed on the Notice of January 1, 2015, in the amount of \$1000.

As the direct request proceeding is based upon written submissions and based upon an uncontested Notice, I grant the landlord only the amount listed on the 10 Day Notice provided. The balance of the landlord's monetary claim is dismissed.

Pursuant to section 55(4)(b) of the Act, I grant the landlord an order of possession for the rental unit effective 2 days after service on the tenant, which is enclosed with the landlord's 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 landlord a monetary order in the amount of \$1000, pursuant to section 67 of the Act, comprised of rent owed, which is enclosed with the landlord's Decision. This order is a legally binding, final order, and should the tenant fail to pay the landlord 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.

Conclusion

The landlord's application for an order of possession for the rental unit and a monetary order for unpaid rent has been granted.

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: February 3, 2015

Residential Tenancy Branch

