



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted in response to a Landlord's Application for Direct Request for an Order of Possession and a Monetary Order for unpaid rent, pursuant to Section 55(4) of the *Residential Tenancy Act* (the "Act").

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding documents which declares that on July 27, 2015 the Landlord served the Tenant with the documents by registered mail to the Tenant's rental suite in accordance with Section 89(1) (c) of the Act. The Landlord provided a copy of the Canada Post tracking receipt as evidence for this method of service. Section 90(a) of the Act provides that a document is deemed to have been received five days after it is mailed. A party cannot avoid service through a failure or neglect to pick up mail or use this reason alone as grounds for a review of this Decision. As a result, I find that the Tenant was deemed served with Notice of Direct Request Proceeding on August 1, 2015.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession for unpaid rent?
- Has the Landlord established a monetary claim for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement signed by the Landlord and the Tenant on November 16, 2014 for a tenancy commencing on November 15, 2014. The tenancy agreement establishes rent is payable by the Tenant in the amount of \$725.00 on the first day of each month;
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on July 19, 2015. The Notice displays the rental unit address and shows a vacancy date of July 29, 2015 due to \$1,450.00 in unpaid rent;

- A copy of the Proof of Service document for the Notice which shows the Landlord served it to the Tenant personally on July 19, 2015 in the presence of a witness. The witness signed the document to verify this method of service. I also note that the Tenant signed the Notice to confirm receipt of it; and
- The Landlord's Application for Direct Request made on July 27, 2015 and the Monetary Order Worksheet claiming unpaid rent for June and July 2015 in the amount of \$1,450.00.

Analysis

I have reviewed the evidence and I accept that the Tenant was personally served with the Notice, the contents of which complied with the Act, on July 19, 2015.

I accept the evidence before me that the Tenant failed to dispute the Notice or pay the outstanding rent on the Notice within the five days provided under Section 46(4) of the Act. Therefore, I find that the Tenant is conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on the vacancy date of the Notice. As a result, the Landlord is entitled to an Order of Possession and a Monetary Order for the unpaid rent claimed.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the Landlord effective **2 days after service on the Tenant**. This order may then be filed and enforced in the Supreme Court of British Columbia as an order of that court.

I further grant a Monetary Order in the amount of **\$1,450.00** in favor of the Landlord pursuant to Section 67 of the Act. This order must be served on the Tenant and may then be filed in the Provincial Court (Small Claims) 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: August 02, 2015

Residential Tenancy Branch

