



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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 September 12, 2015 the Landlord's Agent, H.D. personally served the co-Tenant S.V. with the Notice of Direct Request package. Based on the written submissions of the Landlord, I find that the respondent Tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents, as they were left with an adult who, based on the tenancy agreement, resides with the respondent Tenant.

Issue(s) to be Decided

Has the Landlord met the burden of proof to obtain 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 and the Monetary Order Worksheet which indicates the Tenant owes \$500.00 for July 1, 2015 rent;
- A copy of a residential tenancy agreement which was signed by all parties for a fixed term tenancy that began on January 1, 2011 and switched to a month to month tenancy after December 31, 2011 for the monthly rent of \$500.00 which was payable on or in advance of the first of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, July 12, 2015, listing an effective vacancy date of July 22, 2015, due to \$500.00 in unpaid rent. The 10 Day Notice lists a common spelling for the Tenant's first name; and

- A letter stated that the tenancy agreement listed the former property management company and that the current Landlord was making application for Direct Request.

Documentary evidence filed by the Landlord indicates that each Tenant was personally served the 10 Day Notice to End Tenancy for Unpaid Rent on July 12, 2015, at 12:00 p.m., in the presence of a witness.

Analysis

After careful consideration of the foregoing, documentary evidence, and on a balance of probabilities I find as follows:

Upon review of the 10 Day Notice the Landlord misspelled the Tenant's first name. The Tenant's first name, although spelled in a very unique fashion, is a very common name when heard spoken. I note that the Landlord listed the common spelling for that first name on the 10 Day Notice and not the actual spelling of the Tenant's first name. That being said, I accept that the Tenant knew or ought to have known that the 10 Day Notice was issued to her. If the Tenant felt the Notice was invalid due to this issue she ought to have made application to dispute the Notice. Accordingly, I conclude the 10 Day Notice to be valid and of full force and effect, pursuant to section 62 of the *Act*.

I accept that the respondent Tenant has been served with notice to end tenancy as declared by the Landlord. The notice was received by the Tenants on July 12, 2015 and the effective date of the notice is July 22, 2015, 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 evidence supports that the Tenant has failed to pay rent in accordance with section 26 of the *Act* which stipulates that a tenant must pay rent when it is due under the tenancy agreement. As per the aforementioned I find the Landlord has met the burden of proof and I award them a Monetary Order for unpaid rent for July 2015 of **\$500.00**.

Conclusion

The Landlord was successful with their application and 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 Supreme Court and enforced as an Order of that Court.

The Landlord has been issued a Monetary Order in the amount of **\$500.00**. This Order is legally binding and must be served 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 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: September 17, 2015

Residential Tenancy Branch

