



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 16, 2016, 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 accept 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 tenant and the original landlord on September 26, 2011, indicating a monthly rent of \$725.00 due on the 1st day of the month, beginning on October 1, 2011;
- A statement explaining that the applicant was not the original landlord, but rather the purchaser of the residential property and that no new written tenancy agreements were executed by the tenants of the residential property;

- A copy of the Notice which was dated January 5, 2016, with a stated effective move out date of January 15, 2016, listing \$320.00 in unpaid rent as of January 1, 2016; and
- A signed Proof of Service that the tenant was served the Notice handing the document to an adult who apparently resides in the rental unit on January 5, 2016.

The Notice stated that the tenant had five 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.

Analysis

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

I accept the landlord's unopposed 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 in the amount of \$320.00, as claimed in their application.

Pursuant to section 55(4)(b) of the *Act*, I grant the landlord an order of possession for the rental unit effective two 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 further grant the landlord a monetary order in the amount of \$320.00, 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 and a monetary order for utilities is 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: January 28, 2016

Residential Tenancy Branch

