



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

OPR, FF

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 55(4) and 74(2) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession and to recover the fee for filing this Application for Dispute Resolution.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 13, 2009 an agent for the Landlord served the Tenant with the Notice of Direct Request Proceeding by posting it at the rental unit.

The Landlord received the Direct Request Proceeding package on July 13, 2009 and initiated service that day. Section 90 of the Residential Tenancy Act determines that a document that is posted is deemed to have been received on the third day after it is posted, which in these circumstances is July 16, 2009.

Based on the written submissions of the Landlord, I find the Tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 55, and 72 of the *Act*.

Background and Evidence

I have reviewed the following evidence that was submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant.
- A copy of a residential tenancy agreement between the Landlord and the

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Tenant, which appears to be signed by the Tenant, that indicates that the tenancy began on January 01, 2009 and that the Tenant was required to pay rent of \$870.00 on the first day of each month.

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was signed on July 02, 2009, which states that the Tenant must vacate the rental unit by July 12, 2009 as the Tenant has failed to pay rent in the amount of \$850.00 that was due on July 01, 2009 and a late fee of \$25.00. The Notice states that the tenancy will end unless the Tenant pays the rent or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice.
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy that indicates that an agent for the Landlord posted the Notice on the door of the rental unit on July 02, 2009 at 1100 hours, in the presence of the building manager, who also signed the Proof of Service.

In the Application for Dispute Resolution the Landlord declared that the 10 Day Notice to End Tenancy for Unpaid Rent was posted on the door of the rental unit on July 02, 2009.

In the Application for Dispute Resolution, the Landlord declared that the Tenant had paid \$500.00 in rent for July of 2009 and that \$350.00 in rent is still outstanding. The Landlord also declared that the Tenant still owes a late fee of \$25.00.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant is required to pay monthly rent of \$870.00.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that a 10 Day Notice to End Tenancy was posted on the front door of the rental unit on July 02, 2009.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant had not paid outstanding rent of \$350.00 that was due on July 01, 2009 by the time the Landlord filed the Application for Dispute Resolution. I have no evidence to show that the Tenant paid the outstanding rent since the Landlord filed the Application for Dispute Resolution.

I have no evidence to show that the Tenant filed an Application for Dispute Resolution seeking to set aside the Notice to End Tenancy. Pursuant to section



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46(5) of the *Act*, I therefore find that the Tenant has accepted that the tenancy ended ten days after the Tenant is deemed to have received the Notice. A Notice to End Tenancy that is posted is deemed to be received three days after it is posted, which in these circumstances is July 05, 2009.

Conclusion

I find that the Landlord is entitled to an Order of Possession effective two days after service on the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord did not make application for compensation for the unpaid rent, however I find that the Landlord has established a monetary claim, in the amount of \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. I grant the Landlord a monetary Order for the amount of \$50.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, 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: July 24, 2009.

Dispute Resolution Officer