

DECISION

Dispute Codes

OPR, MNR

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* (the "Act"), and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession and a Monetary Order.

The Landlord submitted two signed Proofs of Service of the Notice of Direct Request Proceeding which declare that on June 18, 2010 the Landlord's agent mailed the Notice of Direct Request Proceeding to each Tenant, by registered mail, to the rental unit. The Landlord provided copies of the registered mail receipts and tracking numbers in evidence.

Based on the written submissions of the Landlord, I find that the Tenants have been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding upon both of the Tenants;
- A copy of the Proof of Service of the Notice to End Tenancy upon the Tenants;
- A copy of a residential tenancy agreement which was signed by the parties on April 8, 2010, indicating a monthly rent of \$825.00 due on the first day of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on June 4, 2010, with a stated effective vacancy date of June 4, 2010, for \$822.50 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenants failed to pay rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the Notice to the Tenants' door at the rental unit on June 4, 2010, at 17:30 p.m. A witness was present and signed the Proof of Service of the 10 Day Notice to End Tenancy.

The Notice states that the Tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The Tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

I have reviewed all documentary evidence and accept that the Notice to End Tenancy was posted on the Tenants' door on June 4, 2010, as declared by the Landlord. Service in this manner is deemed to be effected three days after posting the Notice.

I accept the evidence before me that the Tenants 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 Tenants are conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Pursuant to the provisions of Section 68(2)(a) of the Act, I amend the Notice to End Tenancy to reflect the effective date of the end of tenancy to be June 17, 2010 (10 days after the deemed date of service of the Notice to End Tenancy).

I find that the Landlord is entitled to an Order of possession and a Monetary Order for unpaid rent in the amount of \$822.50.

Conclusion

I hereby provide the Landlord with an Order of Possession effective **two days after service of the Order** upon the Tenants. The Order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord a Monetary Order in the amount of **\$822.50**. This Order must be served on the Tenants and may 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: June 24, 2010
