Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NPR Limited Partnership
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory, ex parte 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 for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice").

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 20, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding, including the landlord's application, via registered mail. Pursuant to section 90 of the Act, the documents were deemed served 5 days later.

Based on the written submissions of the landlord, I find that the tenant has been duly served with the Direct Request Proceeding documents.

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 parties on March 14, 2012, indicating a monthly rent of $950.00 due on the first day of the month;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated on March 4, 2013, with a stated effective move out date of March 14, 2013, listing $1000.00 in unpaid rent; and

- Proof that the tenant was served the Notice by posting it on the tenant's door on March 4, 2013. Section 90 of the Act deems the tenant was served on March 7, 2013. Therefore the effective move out date, March 4, 2013, is automatically corrected to March 17, 2013.

The Notice states 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 has filed an application for dispute resolution to dispute the Notice.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with a notice to end tenancy as declared by the landlord.

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. 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 $1000.00.

Conclusion

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. Costs of such enforcement may be recovered from the tenant.

I grant the landlord a monetary order in the amount of $1000.00, 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, the order may be filed in the Provincial Court of British Columbia

(Small Claims) for enforcement as an order of that Court. Costs of such enforcement may be recovered from the tenant.

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* and is being mailed to both the applicant and the respondent.

Dated: March 26, 2013

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Residential Tenancy Branch