Dispute Resolution Services

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 of the landlord, and dealt with an application for dispute resolution by the landlord for an order of possession for the rental unit, 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 May 2, 2014, the landlord served the tenant with the Notice of Direct Request Proceeding, including the landlord's application, by 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 served with the Direct Request Proceeding documents as required by section 89(1) of the Act.

Preliminary matter-The landlord listed a name for the tenant other than the one appearing on the style of cause page, for which the landlord submitted the tenant was also known. I, however, have not listed the also known as name as that name did not appear on the written tenancy agreement submitted by the landlord.

Issue(s) to be Decided
Is the landlord entitled to an order of possession for the rental unit?

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 December 16, 2013, indicating a monthly rent of $1900 due on the first day of the month, beginning on December 16, 2013;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated March 18, 2014, with a stated effective move out date of March 23, 2014, listing $1700 in unpaid rent as of March 1, 2014; and

- A signed Proof of Service that the tenant was served the Notice by attaching it to the tenant's door on March 18, 2014.

Section 90 of the Act deems the tenant was served on March 21, 2014. Therefore the effective vacancy date, March 23, 2014, is automatically corrected to 10 days after the tenant was deemed to have received the Notice, or March 31, 2014, pursuant to section 53 of the Act.

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 documentary evidence and accept that the tenant has been served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities as submitted by the landlord.

I accept the landlord's 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.

Conclusion
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.

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: May 12, 2014

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Residential Tenancy Branch