



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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). The landlord applied for an order of possession and a monetary order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding, which declares that on October 11, 2014 the landlord served the tenant with notice of the direct request proceeding by registered mail. Section 90 of the Act states that a document is deemed to have been served five days after mailing.

Based on the landlord's written submissions, I find that the tenant has 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 a residential tenancy agreement, signed by the tenant and the landlord on August 7, 2007, indicating a monthly rent of \$625 due on the first of each month;
- a copy of a Notice of Rent Increase document issued July 30, 2013, indicating that the tenant's rent increased from \$650 to \$675 beginning November 1, 2013;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on September 5, 2014, with an effective vacancy date of September 15, 2014, for failure to pay rent in the amount of \$675 that was due on September 1, 2014;
- a copy of the Proof of Service of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, showing that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the notice on the rental unit door in the presence of a witness on September 5, 2014;

- the landlord's application for dispute resolution, in which the landlord applied for monetary compensation of \$675; and
- a monetary order worksheet, filed October 10, 2014, in which the landlord indicated that the tenant paid \$300 of the September 2014 rent, but \$375 was still outstanding.

Analysis

I have reviewed all documentary evidence and I accept that the tenant has been served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on September 8, 2014.

I accept the evidence before me that the tenant failed to pay the full rent owed within the five days granted under section 46(4) of the Act. I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on September 18, 2014, the corrected effective date of the notice. I therefore find that the landlord is entitled to an order of possession.

In regard to the monetary claim, I accept the evidence that the tenant owed \$375 from September 2014 rent; however, the landlord did not provide evidence to support a monetary claim for a further \$300. I therefore grant the landlord a monetary order for unpaid rent in the amount of \$375. The remainder of the monetary claim, for the sum of \$300 in unpaid rent, is dismissed with leave to reapply.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I grant the landlord an order under section 67 for \$300. This order may be filed in the 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: October 24, 2014

