



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Locke Property Management Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory, ex parte matter was conducted by way of a 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 July 26, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding, including the landlord's application, by leaving the documents with the tenant.

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 of the Act.

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 February 28, 2010, indicating a monthly rent of \$700 due on the first day of the month and a monthly appliance rent of \$30;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated on July 5, 2013, with a stated effective move out date of July 15, 2013, listing \$995 in unpaid rent;
- Proof that the tenant was served the Notice by leaving it with the tenant on July 5, 2013;

- Two notices of additional rent increase issued to the tenant, increasing the monthly rent first to \$716 for the year 2011, and then to \$746 for the year 2012; and
- Tenant ledger sheets from the beginning of the tenancy to the present.

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 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 submitted by the landlord that the tenant failed to pay the rent listed 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.

As to the landlord's request for a monetary order, the direct request procedure is an expedited process the landlord may use, is based upon written submissions only, and deals solely with matters relating to vacant possession of the rental unit and unpaid rent.

I find that appliance rental is a separate matter apart from monthly rent for the living space, and is not a proper subject for the direct request procedure.

I am unable to ascertain from the landlord's records whether the amounts previously listed in their ledger sheets and used as a running total for the balance owed pertained to unpaid rent or unpaid appliance rental.

I do, however, find that the tenant owed monthly rent of \$746 for the month of July when the Notice was issued, and that he failed to make any payments. I therefore find the landlord is entitled to a monetary order in the amount of \$746.

As to any remaining monetary claims by the landlord for other expenses alleged to be owed by the tenant, such as unpaid rent for June 2013, appliance rental or late fees, I grant the landlord authority to make an application for dispute resolution to request a participatory hearing to address those monetary issues.

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. The tenant is advised that costs of such enforcement may be recovered from the tenant.

I grant the landlord a monetary order in the amount of \$746, 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 after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. 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: July 30, 2013

Residential Tenancy Branch