



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Grandview Holdings
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded by way of an *ex parte* 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 landlords for an Order of Possession based on unpaid rent and a monetary Order.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 12, 2014, the landlords sent the tenant the Notice of Direct Request Proceeding by registered mail. The landlords provided a copy of the Canada Post Customer Receipt including the Tracking Number to confirm this mailing. Based on the written submissions of the landlords and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on April 17, 2014, the fifth day after their registered mailing.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to the tenant;
- A copy of a residential tenancy agreement which was signed by the landlords and the tenant on October 11, 2011, indicating a monthly rent of \$1,050.00 due on the 1st day of the month;

- A copy of a signed March 6, 2014 agreement between the parties with respect to the payment of rent for the months of March, April and May 2014; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) handed to an adult who apparently resides with the tenant at the rental unit on March 26, 2014, with a stated effective vacancy date of April 5, 2014, for \$1,080.00 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the tenant failed to pay all outstanding rent was served by handing the 10 Day Notice to an adult resident at the rental unit at 2:08 p.m. on March 26, 2014. This adult, CM, signed a Proof of Service Document entered into written evidence by the landlords, as did the female landlord (the agent) and the agent's husband who also signed this document attesting to the agent's service of the 10 Day Notice in this manner. In accordance with section 88 of the *Act*, the tenant was served with this 10 Day Notice on March 26, 2014.

The Notice states that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end. The tenant 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 tenant has been served with notice to end tenancy as declared by the landlords.

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 corrected effective date of the 10 Day Notice, April 8, 2014.

Therefore, I find that the landlords are entitled to a 2 day Order of Possession. As the landlords provided no evidence that the monthly rent had increased from the \$1,050.00 stated on the signed Residential Tenancy Agreement between the parties to \$1,080.00, I limit the landlords' monetary Order to \$1,050.00, the amount stated in that Agreement.

Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I find that the landlords are entitled to a monetary Order in the amount of \$1,050.00 for rent owed for March 2014. The landlords are provided with these Orders in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: April 17, 2014

Residential Tenancy Branch

