



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 landlord for an Order of Possession based on unpaid rent and a monetary Order.

The landlord submitted two signed Proof of Service of the Notice of Direct Request Proceedings which declares that on February 02, 2015, the landlord sent the tenants the Notice of Direct Request Proceedings by registered mail to the rental unit. The landlord provided copies of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenants have been deemed served with the Direct Request Proceeding documents on February 07, 2015, the fifth day after their registered mailing.

Issue(s) to be Decided

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

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceedings served to the tenants;
- A Tenant Ledger showing the rent owing and paid during this tenancy;

- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on April 11, 2014, indicating a monthly rent of \$2,300.00 due on the 1st day of the month for a tenancy commencing on May 01, 2014;
- A Monetary Order Worksheet showing the rent owing and paid during this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) only in tenant D.J.'s name, dated January 21, 2015 and posted on the tenants' door on January 22, 2015, with a stated effective vacancy date of February 04, 2015, for \$2,350.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant's door at 1:20 p.m. on January 22, 2015. The Notice states that the tenant(s) 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 Monetary Order Worksheet noted that \$1,800.00 of the \$2,350.00 identified as owing in the 10 Day Notice was paid on January 28, 2015.

Analysis

I have reviewed all documentary evidence. In accordance with sections 88 and 90 of the *Act*, I find that Tenant D.J. was deemed served with the 10 Day Notice on January 25, 2015, three days after its posting.

I find that the tenants were obligated to pay the monthly rent in the amount of \$2300.00 for January 2015, \$500.00 of which remained owing as of February 02, 2015.

I accept the evidence before me that the tenants have failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act* and did not dispute the 10 Day Notice within that 5 day period

Based on the foregoing, I find that the Tenant D.J. and all occupants on the rental premises are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, February 04, 2015.

I find that Tenant C.R.'s name is written differently on the Application for Dispute Resolution than it is on the residential tenancy agreement and other documents submitted by the landlord. As I am not able to clarify the correct spelling in an Ex Parte

hearing, I dismiss the monetary portion of the claim against Tenant C.R. with leave to reapply.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order for the Tenant D.J. in the amount of \$500.00, the amount claimed by the landlord, for unpaid rent owing for January 2015 as of February 2, 2015.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should Tenant D.J. and any occupant or anyone else on the rental premises 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 landlord is entitled to a monetary Order in the amount of \$500.00 for rent owed for January, 2015. The landlord is provided with this Order in the above terms and the Tenant D.J. must be served with **this Order** as soon as possible. Should the Tenant D.J. fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I dismiss the landlord's application naming Tenant C.R. with leave to reapply.

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: February 10, 2015

Residential Tenancy Branch

