



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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 18, 2015, the landlord sent Tenant J.S. the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that Tenant J.S. has been deemed served with the Direct Request Proceeding documents on April 23, 2015, the fifth day after their registered mailing.

The landlord has not provided a signed Proof of Service of the Notice of Direct Request Proceeding for Tenant D.J. and has not established that Tenant D.J. has been served the Notice of Direct Request Proceeding. Therefore, I dismiss the landlord’s application against the Tenant D.J. with leave to reapply. I will hear the landlord’s application against Tenant J.S.

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 Proceeding served to Tenant J.S.;
- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on July 01, 2013, indicating a monthly rent of \$1,350.00, due on the first day of the month for a tenancy commencing on July 01, 2013;
- 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) dated April 03, 2015, and personally handed to Tenant J.S. on April 03, 2015, with a stated effective vacancy date of April 13, 2015, for \$1,375.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was personally handed to Tenant J.S. at 4:00 p.m. on April 03, 2015. The 10 Day Notice states that the tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

Analysis

I have reviewed all documentary evidence and in accordance with section 88 of the *Act*, I find that the tenants were duly served with the 10 Day Notice on April 13, 2015.

I find that the tenants were obligated to pay the monthly rent in the amount of \$1,350.00 as per the tenancy agreement.

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 tenants 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, April 13, 2015.

I note that the only monetary award available to a landlord by way of the direct request process is for unpaid rent and unpaid utilities. As the landlord has also sought a

monetary award for matters relating to a parking fee, I would not be able to consider this aspect of the landlord's claim through the direct request process.

Therefore, I find that the landlord is entitled to an Order of Possession for this tenancy and a monetary Order in the amount of \$1,350.00, the amount of rent claimed by the landlord, for unpaid rent owing for April 2015 as of April 15, 2015.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) 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 \$1,350.00 for rent owed for April 2015. The landlord is provided with this Order in the above terms and the Tenant J.S. must be served with **this Order** as soon as possible. Should Tenant J.S. 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.

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 24, 2015

Residential Tenancy Branch

