



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 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 14, 2015, at 7:20 pm, the landlord “JS” served the tenant with the Notice of Direct Request Proceeding by way of personal service via hand-delivery. The Proof of Service form establishes that the service was witnessed by “CS” and a signature for CS is included on the form.

Based on the written submissions of the landlords, and in accordance with section 89 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on April 14, 2015.

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 June 12, 2014, indicating a monthly rent of \$1,000.00 due on the first day of the month for a tenancy commencing on June 15, 2014;
- A Monetary Order Worksheet showing the rent owing and paid during the portion of this tenancy in question, on which the landlords establish a monetary claim in the amount of \$714.93 for unpaid rent for April 2015. The landlords state that the monthly rent owed for April 2015 was \$1,000.00 and a partial payment was received in the amount of \$285.07 on April 13, 2015, resulting in a balance of rent owing in the amount of \$714.93;
- A copy of a receipt which demonstrates that a partial payment of \$285.07 was provided by the tenant toward rent for April 2015 on April 13, 2015, and was acknowledged by the landlords as being received for use and occupancy only;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) dated April 6, 2015, which the landlords state was served to the tenant on April 6, 2015 for \$1,000.00 in unpaid rent due on April 1, 2015, with a stated effective vacancy date of April 16, 2015; and
- A copy of the Proof of Service of the Notice showing that the landlord "JS" served the Notice to the tenant by way of personal service via hand-delivery at 9:00 pm on April 6, 2015. The personal service was confirmed as the tenant acknowledged receipt of the Notice by signing the Proof of Service form on April 6, 2015.

The Notice restates section 46(4) of the Act which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the effective date of the Notice. The tenant did not apply to dispute the Notice within five days from the date of service and the landlords alleged that the tenant did not pay the rental arrears.

Analysis

I have reviewed all documentary evidence and find that in accordance with section 88 of the *Act* the tenant was duly served with the Notice on April 6, 2015.

I find that the tenant was obligated to pay monthly rent in the amount of \$1,000.00, as established in the tenancy agreement. I accept the evidence before me that the tenant has failed to pay outstanding rental arrears in the amount of \$714.93 in rent owed for the month of April 2015. I find that the tenant received the Notice on April 6, 2015. I accept the landlords' undisputed evidence and find that the tenant did not pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act* and did not apply to dispute the Notice within that 5-day period.

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, April 16, 2015.

Therefore, I find that the landlords are entitled to an Order of Possession and a monetary Order of \$714.93 for unpaid rent owing for April 2015, as of April 14, 2015.

Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenant(s). 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 landlords are entitled to a monetary Order in the amount of \$714.93 for unpaid rent owing for April 2015, as of April 14, 2015. The landlords are provided with these Orders in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) 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 16, 2015

Residential Tenancy Branch

