



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DELANEY PROPERTIES LTD
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 two signed Proof of Service of the Notice of Direct Request Proceeding forms which declare that on March 24, 2015, the landlord “SM” served the above-named tenants with the Notice of Direct Request Proceeding via registered mail. The landlords provided two copies of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Section 90 of the *Act* determines that a document served in this manner is deemed to have been received 5 days after service.

Based on the written submissions of the landlords, 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 March 29, 2015, 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:

- Two copies of the Proof of Service of the Notice of Direct Request Proceeding served to the tenants;
- A copy of a document titled “Residential Property Management Agreement” which was signed by an individual identified as “SD”, the owner of the rental unit,

and the property management company, as well as their agent “SM”, identified as the applicant landlords on this application;

- A copy of a residential tenancy agreement which was signed by the owner landlord SD and the tenants on July 12, 2014, indicating a monthly rent of \$975.00 due on the first day of the month for a tenancy commencing on July 12, 2014;
- A Monetary Order Worksheet showing the rent owing during the portion of this tenancy in question, on which the landlords establish a monetary claim in the amount of \$1,950.00 for unpaid rent, comprised of monthly rent owed in the amount of \$975.00 for each of February 2015 and March 2015.;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) dated March 16, 2015, which the landlords state was served to the tenants on March 16, 2015 for \$1,950.00 in unpaid rent due on February 1, 2015, with a stated effective vacancy date of March 28, 2015; and
- A note from the landlord’s agent SM, which conveys that the Notice issued to the tenants should have listed a date of March 1, 2015, as the date by which the unpaid rent was due;
- A copy of the Proof of Service of the Notice showing that the landlord’s agent “SM” served the Notice to the tenants by way of personal service via hand-delivery to the tenant “RR” at 1:00 pm on March 16, 2015. The Proof of Service establishes that the service was witnessed by “MG” and a signature for MG is included on the form.

The Notice restates section 46(4) of the *Act* which provides that the tenants 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 tenants did not apply to dispute the Notice within five days from the date of service and the landlords alleged that the tenants 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 tenants were duly served with the Notice on March 16, 2015.

The Notice issued to the tenants for unpaid rent, dated March 16, 2015, indicates that the tenants owed unpaid rent in the amount of \$1,950.00 which was due by February 1, 2015. The tenancy agreement established that monthly rent owed is \$975.00, and the amount of \$1,950.00 listed on the Notice is comprised of two months’ rent. The landlord provided a note to demonstrate that the Notice was to list March 1, 2015 as the date on which the rental arrears in the amount of \$1,950.00 were due. I find that, on a balance of probabilities, the tenants likely owed unpaid rent in the amount of \$1,950.00 for the months of February 2015 and March 2015, as established by the landlord on the

monetary Order worksheet. If the tenants found that they had been alerted to an incorrect amount of unpaid rent, as listed on the Notice dated March 16, 2015, it was open to the tenants to dispute the Notice within five days of receiving the Notice.

I find that the tenants were obligated to pay monthly rent in the amount of \$975.00, as established in the tenancy agreement. I accept the evidence before me that the tenants have failed to pay outstanding rental arrears in the amount of \$1,950.00 in rent, which comprises the balance of rent owed for the months of February 2015 and March 2015.

I find that the tenants received the Notice on March 16, 2015. I accept the landlords' undisputed evidence and find that the tenants 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 tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice, March 28, 2015.

Therefore, I find that the landlords are entitled to an Order of Possession and a monetary Order of \$1,950.00 for unpaid rent owing for February 2015 and March 2015, as of March 24, 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 \$1,950.00 for unpaid rent owing for February 2015 and March 2015, as of March 24, 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 2, 2015

Residential Tenancy Branch