



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 landlord submitted two signed Proof of Service of the Notice of Direct Request Proceeding forms which declare that on April 14, 2015, the landlord “SA” served each of the above-named tenants with the Notice of Direct Request Proceeding by way of personal service via hand-delivery. The personal service was confirmed as the tenants acknowledged receipt of the Notice of Direct Request Proceeding by providing their respective signatures on the Proof of Service forms. The personal service was also confirmed as the Proof of Service forms establish that the service was witnessed by “OA” and a signature for OA is included on each of the forms.

Based on the written submissions of the landlord, and in accordance with section 89 of the *Act*, I find that the tenants have 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:

- Two copies of the Proof of Service of the Notice of Direct Request Proceeding served to the tenants;

- A copy of a residential tenancy agreement which was signed by the landlords and the tenant “JM” on March 1, 2015, indicating a monthly rent of \$1,050.00 due on the first day of the month for a tenancy commencing on February 15, 2015. Although a second tenant, identified as “BG”, is named as a respondent on the application and is listed on the tenancy agreement, a signature for BG does not appear on the tenancy agreement. Therefore, I will consider the landlord’s application against the tenant JM only ;
- 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 \$1,350.00 for unpaid rent. The landlords indicate that there is a portion of monthly rent owing for March 2015 in the amount of \$300.00 and unpaid rent owed for April 2015 in the amount of \$1,050.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) dated April 5, 2015, which the landlords state was served to the tenants on April 5, 2015 for \$1,350.00 in unpaid rent due on April 1, 2015, with a stated effective vacancy date April 15, 2015; and
- A copy of the Proof of Service of the Notice showing that the landlord “SA” served the Notice to the tenants by way of personal service via hand-delivery to the tenant “BG” at 1:40 pm on April 5, 2015. The personal service was confirmed as the tenant “BG” acknowledged receipt of the Notice by signing the Proof of Service form. The Proof of Service form also establishes that the service was witnessed by “OA” and a signature for OA 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 April 5, 2015.

I find that the tenants were obligated to pay monthly rent in the amount of \$1,050.00, 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 \$1,350.00, comprised of the sum of unpaid rent owed for the months of March 2015 and April 2015. I find that the tenants received the Notice on April 5, 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, April 15, 2015.

Therefore, I find that the landlords are entitled to an Order of Possession and a monetary Order of \$1,350.00 for unpaid rent owing for March 2015 and April 2015.

Although there are two tenants listed on the application and on the tenancy agreement, only the tenant JM is a signatory to the tenancy agreement; therefore, I will issue the orders against the tenant JM only.

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 \$1,350.00 for unpaid rent owing for March 2015 and April 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 20, 2015

Residential Tenancy Branch

