



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 28, 2015, the landlord personally served Tenant W.L. the Notice of Direct Request Proceeding. The landlord had Tenant W.L. sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service.

The landlord has not provided a signed Proof of Service of the Notice of Direct Request Proceeding for Tenant T.M. and has not established that Tenant T.M. has been served the Notice of Direct Request Proceeding. Therefore, the landlord's application against Tenant T.M. is dismissed with leave to reapply. I will hear the landlord's application against Tenant W.L.

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 W.L.;

- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on November 13, 2014, indicating a monthly rent of \$1,145.00, due on the first day of the month for a tenancy commencing on December 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) dated April 09, 2015, and posted to the tenant's door on April 09, 2015, with a stated effective vacancy date of April 20, 2015, for \$2,315.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant's door at 11:30 a.m. on April 09, 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 sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice on April 12, 2015, three days after its posting.

I find that the tenants were obligated to pay the monthly rent in the amount of \$1,145.00 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 corrected effective date of the 10 Day Notice, April 22, 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 late 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 against Tenant W.L. in the amount of \$2,290.00, the amount of

rent claimed by the landlord, for unpaid rent owing for March 2015 and April 2015 as of April 24, 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 \$2,290.00 for rent owed for March 2015 and April 2015. The landlord is provided with this Order in the above terms and Tenant W.L. must be served with **this Order** as soon as possible. Should Tenant W.L. 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 for a monetary Order naming Tenant T.M. as a respondent 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: May 13, 2015

Residential Tenancy Branch

