



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACE PROPERTY MANAGEMENT
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 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 July 8, 2015, the landlord sent tenant K.M. 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 K.M. has been deemed served with the Direct Request Proceeding documents on July 13, 2015, the fifth day after their registered mailing.

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 K.M.;

- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on January 21, 2015, indicating a monthly rent of \$900.00, due on the first day of the month for a tenancy commencing on February 15, 2015;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated June 25, 2015, and posted to the tenants' door on June 25, 2015, with a stated effective vacancy date of July 5, 2015, for \$900.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenants' door at 4:00 (a.m. or p.m. not indicated) on June 25, 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 June 28, 2015, three days after its posting.

I find that the tenants were obligated to pay the monthly rent in the amount of \$900.00 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 date of the 10 Day Notice, July 8, 2015.

In this type of matter, the landlord must prove they served the tenants with the Notice of Direct Request Proceeding with all the required inclusions as indicated on the Notice as per Section 89 of the *Act*.

Based on the written submission of the landlord and in accordance with sections 88 and 90 of the *Act*, I find that tenant K.M. was deemed served with the Notice of Direct

Request Proceeding documents on July 13, 2015, five days after their registered mailing.

I find that, in the absence of a Proof of Service of the Notice of Direct Request Proceedings for tenant E.N., the service requirement of section 89 of the *Act* has only been met in regards to Tenant K.M..

I dismiss the landlord's application naming Tenant E.N. with leave to reapply.

Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order against Tenant K.M. in the amount of \$900.00, the amount claimed by the landlord, for unpaid rent owing for June 2015 as of July 7, 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 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 \$900.00 for rent owed for June 2015. The landlord is provided with this Order in the above terms and Tenant K.M. must be served with **this Order** as soon as possible. Should Tenant K.M. 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 E.N. 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: July 13, 2015

Residential Tenancy Branch

