



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 11, 2015, at 2:55 PM, the landlord’s agent “AS” served the tenant with the Notice of Direct Request Proceeding documents by leaving the documents at the tenant’s residence with an adult who apparently resides with the tenant. The landlord states that the Notice of Direct Request Proceeding documents for the tenant were served at the rental unit, by way of hand-delivery, to an individual identified as “MP”. Additional evidentiary material provided with the landlord’s application serves to establish that “MP” is an adult who resides with the tenant. The service was confirmed as the individual identified as “MP” acknowledged receipt of the Notice of Direct Request Proceeding documents by signing the Proof of Service form. The service was also confirmed as the Proof of Service form establishes that the service was witnessed by “CP” and a signature for “CP” is included on the form.

Based on the written submissions of the landlord, and in accordance with section 89 of the *Act*, I find that the tenant has been served with the Direct Request Proceeding documents on August 11, 2015.

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*?

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 the tenant;

- A copy of a residential tenancy agreement which was signed by the landlord's agent and the tenant on March 15, 2015, indicating a monthly rent of \$775.00 due on the first day of the month for a tenancy commencing on March 15, 2015;
- A Monetary Order Worksheet showing the rent owing during the portion of this tenancy in question, on which the landlord establishes that there is unpaid rent owing in the amount of \$775.00 for the month of August 2015;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) dated August 4, 2015, which the landlord states was served to the tenant on August 4, 2015, for \$775.00 in unpaid rent due on August 1, 2015, with a stated effective vacancy date of August 14, 2015; and
- A copy of the Proof of Service of the Notice showing that the landlord's agent "AS" served the Notice to the tenant on August 4, 2015, at 1:00 PM, by way of leaving the Notice with an adult who apparently lives with the tenant. The landlord indicates that the Notice was left with an individual identified as "MP" who the landlord indicates resides with the tenant. The Proof of Service form establishes that the service was witnessed by "CP" and a signature for "CP" is included on the form.

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 landlord 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 served with the Notice on August 4, 2015.

I find that the tenant was obligated to pay monthly rent in the amount of \$775.00, as established in the tenancy agreement. I accept the evidence before me that the tenant has failed to pay \$775.00 in rent for the month of August 2015. I find that the tenant received the Notice on August 4, 2015. I accept the landlord's 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, August 14, 2015.

Therefore, I find that the landlord is entitled to an Order of Possession based on the August 4, 2015 Notice served to the tenant for unpaid rent owing for August 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.

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: August 13, 2015

Residential Tenancy Branch

