



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 September 24, 2015, the landlord personally served Tenant B.L. the Notice of Direct Request Proceeding. The landlord had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlord and in accordance with section 89, I find that Tenant B.L. has been duly served with the Direct Request Proceeding documents on September 24, 2015, the day it was personally served to them.

The landlord has not provided a signed Proof of Service of the Notice of Direct Request Proceeding for Tenant S.W. and has not established that Tenant S.W. has been served with the Notice of Direct Request Proceeding. Therefore, the monetary portion of the landlord's application naming Tenant S.W. as a respondent is dismissed, with leave to reapply.

I will hear the landlord's application naming Tenant B.L. as a respondent.

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 B.L.;
- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on November 15, 2014, indicating a monthly rent of \$900.00, due on the first day of the month for a tenancy commencing on November 15, 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 July 10, 2015, and personally handed to Tenant B.L. on July 10, 2015, with a stated effective vacancy date of July 10, 2015, for \$1,270.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was personally handed to Tenant B.L. at 12:00 p.m. on July 10, 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 section 88 of the *Act*, I find that the tenants were duly served with the 10 Day Notice on July 10, 2015.

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 effective date of the 10 Day Notice, July 20, 2015.

I find that the amount of rent owing on the 10 Day Notice that was issued to the tenant was in the amount of \$1,270.00, which is more than the monthly rent amount of \$900.00 that was owed for June 2015 as per the tenancy agreement. I further find that there are

no details on the Monetary Order Worksheet which addresses this amount owing which is over and above the monthly rent of June 2015, thereby making the Monetary Order Worksheet incomplete.

For the above reason, the monetary portion of the landlord's application naming Tenant B.L. as a respondent is dismissed, with leave to reapply.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for June 2015 as of September 23, 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.

I dismiss the landlord's application for a monetary Order, 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: September 28, 2015

Residential Tenancy Branch

