



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 August 10, 2015, the tenant was served with the Notice of Direct Request Proceeding and the hearing package by posting it on her rental unit door. Based on the written submissions of the landlord, including documentation of witness to service, and in accordance with sections 89 and 90 of the *Act*, I find that the tenants have been deemed served with the Direct Request Proceeding documents on August 13, 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*?

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 the tenant;

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on June 15, 2014, indicating a monthly rent of \$875.00 due on the 1st day of the month for a tenancy commencing on June 15, 2014 (with June 2014 pro-rated to reflect ½ month duration and rental amount);
- A Monetary Order Worksheet showing the rent owing during this tenancy as well as rent or amounts paid towards August rent; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (“the 10 Day Notice”) posted on the tenants’ door on August 10, 2015, with a stated effective vacancy date of August 22, 2015, for \$800.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant was served by posting the 10 Day Notice to the tenants’ door on August 10, 2015. In accordance with sections 88 and 90 of the *Act*, the tenants are deemed served with this 10 Day Notice on August 13, 2015, three days after its posting.

The Notice states that the tenant had five days from the date of service to pay the outstanding rent in full or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service. However, according to the landlord’s records, the tenant made a payment towards the outstanding rent on August 17, 2015, 4 days after receiving the notice to end tenancy.

Analysis

I have reviewed all documentary evidence and accept that the tenant was served with notice to end tenancy as declared by the landlord.

I accept the evidence before me that the tenant failed to pay the full rent owed in full within the 5 days granted under section 46(4) of the *Act*. I note that the tenant made some effort to pay towards the balance but did not pay the full amount so as to rectify the arrears identified in the 10 Day Notice.

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 corrected effective date of the 10 Day Notice, August 23, 2015.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order of \$500.00 for unpaid rent owing from August 1, 2015.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenants 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 \$500.00 for rent owed for August 2015.

The landlord is provided with these Orders in the above terms and the tenant(s) must be served with these Orders 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: September 1, 2015

Residential Tenancy Branch

