



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SINGLA HOMES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution filed by the Landlord for an Order of Possession for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 21, 2015 at 5:35 p.m. the Landlord personally served each named Respondent with the Notice of Direct Request Proceeding on September 21, 2015 at 5:35 p.m. in the presence of a witness. Based on the written submissions of the Landlord, I find that each named Respondent was sufficiently served notice of this proceeding, in accordance with section 89 of the Act.

Issue(s) to be Decided

- 1) Is the Landlord entitled to an Order of Possession and a Monetary Order?
- 2) If so, should those Orders be issued against both named respondent Tenants?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each named Tenant;
- A copy of the Application for Direct Request listing three payments made \$180.00 paid on August 9, 2015, \$600.00 paid on August 21, 2015, and \$700.00 paid on August 26, 2015, leaving a balance owing of \$520.00.
- A copy of a residential tenancy agreement which was signed by the Landlord, the Tenant K.T. and another person with the initials M.C. There was no signature on the tenancy agreement showing the section Tenant's name, L.T.

- The tenancy agreement was for a fixed term tenancy that began on February 1, 2015 and scheduled to end on January 31, 2016. Rent of \$1,300.00 was due in advance on the 1st of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 06, 2015, with an effective vacancy date listed as August 16, 2015, due to \$1,700.00 in unpaid rent that was due on August 01, 2015;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued June 15, 2015 which shows that \$400.00 was outstanding from the June 1, 2015 rent. This Notice along with the Application for Direct Request indicates that the \$400.00 balance due continued onto the following months and was still outstanding at the time the Application for Direct Request was filed;
- Copies of receipts for payments made by the Tenants as follows: \$180.00 paid on August 9, 2015 and \$600.00 paid on August 21, 2015. Each receipt indicated the payments were received for "occupancy only";
- A proof of service document which indicated that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on August 16, 2015 when it was personally handed to the respondent L.T. at 2:00 p.m., in the presence of a witness.

Analysis

The Direct Request procedure is based upon written submissions only and requires that the submissions be sufficiently clear, valid and supported by evidence in order to succeed. Evidence must be submitted to prove that a tenancy agreement exists between the applicant and all named respondent(s).

I have reviewed all documentary evidence and note that there was no signature on the tenancy agreement which included the first and last name of the respondent L.T. There was however a signature from someone with a different first name starting with "M" and a different last name starting with "C". That being said, the Tenant K.T. did sign the agreement. Therefore, as this application has been filed under the Direct Request process so clarifying questions cannot be asked, I find this application may only proceed against Tenant K.T. who was a signatory to the tenancy agreement. Accordingly, I dismiss the claim against the Tenant L.T., without leave to reapply.

Section 88(e) of the *Act* provides that service of a Notice may be conducted by leaving a copy at the person's residence with an adult who apparently resides with the person.

Based on the above, I accept that the Tenant K.T. has been served with the 10 Day Notice to end tenancy as L.T., who is an adult who resides with K.T. was personally served with the Notice, pursuant to section 88(e) of the *Act*.

The notice was received on August 06, 2015 and the effective date of the notice was August 16, 2015, pursuant to section 46 the *Act*. I accept the evidence before me that the Tenants failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

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 and I hereby grant the Landlord an Order of Possession.

The evidence supports that the Tenant failed to pay the accumulated amount of rent that was due on August 1, 2015, in violation of section 26 of the *Act* which provides that a tenant must pay rent when it is due under the tenancy agreement. As per the aforementioned I approve the Landlord's request for a Monetary Order for **\$520.00**.

Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

The claim against respondent Tenant L.T. is HEREBY DISMISSED, without leave to reapply. The Landlord was success with his application against Tenant K.T. and was granted and Order of Possession and a Monetary Order for unpaid rent up to August 31, 2015 of \$520.00.

The Landlord has been issued an Order of Possession effective **Two (2) Days after service upon the Tenant**. In the event that the Tenant does not comply with this Order it may be filed with the Supreme Court and enforced as an Order of that Court.

The Landlord has been issued a Monetary Order in the amount of **\$520.00**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order 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 24, 2015

Residential Tenancy Branch

