



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 landlords for an Order of Possession based on unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 23, 2015, the landlords personally served Tenant E.B. the Notice of Direct Request Proceeding. The landlords had the tenant sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submissions of the landlords and in accordance with section 89(1) of the *Act*, I find that Tenant E.B. has been duly served with the Direct Request Proceeding documents on October 23, 2015.

The landlords submitted a second signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 23, 2015, the landlords served Tenant V.B. by posting the Notice of Direct Request Proceeding to the door of the rental unit. The landlords had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service. Based on the written submissions of the landlords and in accordance with sections 89(2) and 90 of the *Act*, I find that Tenant V.B. has been deemed served with the Direct Request Proceeding documents on October 26, 2015, the third day after their posting.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proofs of Service of the Notices of Direct Request Proceeding served to the tenants;
- A copy of a residential tenancy agreement which was signed by the landlord and Tenant E.B. on August 19, 2014, indicating a monthly rent of \$1,300.00, due on the first day of the month for a tenancy commencing on August 20, 2014;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy. The Monetary Order Worksheet noted that \$1,700.00 of the \$1,950.00 identified as owing in the 10 Day Notice was paid on October 10, 2015; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 5, 2015, and personally served to the tenants on October 5, 2015, with a stated effective vacancy date of October 15, 2015, for \$1,950.00 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the 10 Day Notice was personally served to the tenants at 6:30 pm on October 5, 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 October 5, 2015.

I find that the residential tenancy agreement submitted by the landlords is not signed by Tenant V.B., which is a requirement of the direct request process. Therefore I dismiss the landlord's application naming Tenant V.B. with leave to reapply.

I find that Tenant E.B. was obligated to pay the monthly rent in the amount of \$1,300.00, as per the tenancy agreement.

I accept the evidence before me that Tenant E.B. has 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 Tenant E.B. is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, October 15, 2015.

Therefore, I find that the landlord is entitled to an Order of Possession against Tenant E.B. for unpaid rent owing for October 2015 as of October 19, 2015.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on Tenant E.B. Should Tenant E.B. fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlord's application for an Order of Possession naming Tenant V.B. is dismissed 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: October 26, 2015

Residential Tenancy Branch

