



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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on October 25, 2015, the landlords personally served the tenants the Notices of Direct Request Proceeding. The landlords had the tenants sign the Proofs of Service of the Notices of Direct Request Proceeding to confirm personal service. Based on the written submissions of the landlords and in accordance with section 89 of the *Act*, I find that the tenants have been duly served with the Direct Request Proceeding documents on October 25, 2015.

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*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 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 Tenant K.W. on June 15, 2015, indicating a monthly rent of \$1,000.00, due on the first day of the month for a tenancy commencing on June 15, 2015;
- A copy of a letter showing the transfer of ownership from the former owner, who is named on the residential tenancy agreement, to the current owner who is applying for dispute resolution;
- A Monetary Order Worksheet showing the rent owing and paid during this tenancy. The Monetary Order Worksheet noted that, of the \$1,805.00 identified as owing in the 10 Day Notice, \$100.00 was paid on October 9, 2015, \$500.00 was paid on October 14, 2015 and \$260.00 was paid on October 16, 2015; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 2, 2015, and posted to the tenants' door on October 2, 2015, with a stated effective vacancy date of October 12, 2015, for \$1,805.00 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the 10 Day Notice was posted to the tenants' door at 2:20 pm on October 2, 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 sections 88 and 90 of the *Act*, I find that the tenants was deemed served with the 10 Day Notice on October 5, 2015, three days after its posting.

I find that the residential tenancy agreement submitted by the landlords is not signed by Tenant C. S.-B., which is a requirement of the direct request process. Therefore, I dismiss the landlord's application for an Order of Possession and a Monetary Order naming Tenant C. S.-B., with leave to reapply.

I find that Tenant K.W. was obligated to pay the monthly rent in the amount of \$1,000.00, as per the tenancy agreement.

I accept the evidence before me that Tenant K.W. 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 K.W. 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, October 15, 2015.

Therefore, I find that the landlords are entitled to an Order of Possession and a Monetary Order in the amount of \$945.00, the amount claimed by the landlords, for unpaid rent owing for the period of July 2015 to October 2015 as of October 23, 2015.

Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the Tenant K.W. Should Tenant K.W. 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 landlords are entitled to a Monetary Order in the amount of \$945.00 for rent owed for the period of July 2015 to October 2015. The landlords are provided with this Order in the above terms and Tenant K.W. must be served with **this Order** as soon as possible. Should Tenant K.W. fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The landlords' application for an Order of Possession and Monetary Order naming Tenant C. S.-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

