



Dispute Resolution Services

Page: 1

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 two signed Proof of Service of the Notice of Direct Request Proceedings which declares that on January 05, 2015, the landlord sent the tenants the Notices of Direct Request Proceeding by registered mail to the rental unit. The landlord provided copies of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlord 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 January 10, 2016, the fifth day after their registered mailing.

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:

- Two copies of the Proof 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 the tenants on October 21, 2015, indicating a monthly rent of \$1,750.00, due on the first day of the month for a tenancy commencing on October 20, 2015;
- 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 December 28, 2015, and personally handed to Tenant R.F. on December 28, 2015, with a stated effective vacancy date of January 07, 2016, for \$1,750.00 in unpaid rent owing for November 2015.
- A second copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated December 28, 2015, and personally handed to Tenant R.F. on December 28, 2015, with a stated effective vacancy date of January 07, 2016, for \$1,750.00 in unpaid rent owing for November 2015.

Witnessed documentary evidence filed by the landlord indicates that both of the 10 Day Notices were personally handed to Tenant R.F. at 11:30 a.m. on December 28, 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 Notices on December 28, 2015.

I find that the tenants were obligated to pay the monthly rent in the amount of \$1,750.00 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 Notices 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 effective date of the 10 Day Notice, January 07, 2016.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order in the amount of \$3,500.00, the amount claimed by the landlord, for unpaid rent owing for November 2015 and December 2015, as of January 05, 2016.

I note that it is more common and accepted that the total amount for multiple month's rent owing are only put on one 10 Day Notice, although there is nothing in the *Act* which states a landlord can only issue one 10 Day Notice for multiple month's rent. In a direct request application, issuing only one 10 Day Notice is preferable in order to reduce any chance of ambiguity which may give rise to issues that need further clarification beyond the purview of a Direct Request Proceeding.

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.

Pursuant to section 67 of the *Act*, I find that the landlord is entitled to a monetary Order in the amount of \$3,500.00 for rent owed for November 2015 and December 2015. The landlord is provided with this Order in the above terms and the tenants must be served with **this Order** as soon as possible. Should the tenants 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.

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: January 11, 2016

Residential Tenancy Branch

