



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 March 06, 2016, the landlord personally served the tenant the Notice of Direct Request Proceeding. The landlord had the tenant sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlord and in accordance with section 89, I find that the tenant has been duly served with the Direct Request Proceeding documents on March 06, 2016, the day it was personally served to them.

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 January 28, 2016, indicating a monthly rent of \$2,300.00, due on the first day of the month for a tenancy commencing on February 01, 2016;

- A copy of an addendum which was signed by the landlord and the tenant on January 28, 2016, indicating a monthly reduction of rent in the amount of \$100.00 for maintenance of the property by the tenants;
- A Monetary Order Worksheet showing the rent owing and paid during this tenancy. The Monetary Order Worksheet noted that \$900.00 of the \$2,200.00 identified as owing in the 10 Day Notice was paid on February 22, 2016; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated February 10, 2016, and left with an adult who apparently resides with the tenant on February 10, 2016, with a stated effective vacancy date of February 21, 2016, for \$2,200.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was left with an adult who apparently resides with the tenant at 5:30 p.m. on February 10, 2016. The Special Details section of the Proof of Service Notice to End Tenancy notes that the adult who the 10 Day Notice was left with is the tenant's son and is an adult. 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 tenant was duly served with the 10 Day Notice on February 10, 2016.

I find that the tenant was obligated to pay the monthly rent in the amount of \$2,200.00, as per the tenancy agreement and the addendum.

I accept the evidence before me that the tenant 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 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 10 Day Notice, February 21, 2016.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order in the amount of \$1,300.00, for unpaid rent owing for February 2016 as of March 01, 2016.

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 \$1,300.00 for rent owed for March 2016. 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: March 18, 2016

Residential Tenancy Branch

