



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 August 24, 2016, the landlord personally served the tenant the Notice of Direct Request Proceeding. The landlord had a witness 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 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on August 24, 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 March 08, 2016, indicating a monthly rent in the amount of \$2,500.00, due on the ninth day of the month for a tenancy commencing on March 09, 2016;

- A copy of an addendum to the tenancy agreement signed by the landlord and the tenant on March 08, 2016, indicating payment of utilities(hydro, gas, cable and internet) at 40% of the total amount on the utility bills;
- A copy of a BC Hydro bill, dated June 13, 2016, in the amount of \$396.45(40% is \$158.58);
- A copy of a Fortis Gas bill, dated June 16, 2016, in the amount of \$30.63(40% is \$12.25);
- A copy of a Fortis Gas bill, dated May 17, 2016, in the amount of \$28.64(40% is \$11.46);
- A copy of a Shaw Cable bill, dated May 01, 2016, in the amount of \$155.05(40% is \$62.02);
- A copy of a Shaw Cable bill, dated June 01, 2016, in the amount of \$155.05(40% is \$62.02);
- A copy of a demand letter from the landlord to the tenant, dated June 26, 2016, requesting payment of utilities in the amount of \$306.33;
- A Monetary Order Worksheet showing the utilities 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 August 02, 2016, and sent by registered mail to the tenant on August 02, 2016, with a stated effective vacancy date of August 18, 2016, for \$306.33 in unpaid utilities.

Documentary evidence filed by the landlord indicates that the 10 Day Notice was sent by registered mail to the tenant at 3:48 p.m. on August 02, 2016. 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 tenant was deemed served with the 10 Day Notice on August 07, 2016, five days after its mailing.

I find that the tenant was obligated to pay 40% of the Hydro, Gas, cable and internet bills as per the addendum to the tenancy agreement. I accept the evidence before me that the tenant has failed to pay the utilities 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, August 18, 2016.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order in the amount of \$306.33, the amount claimed by the landlord, for unpaid utilities, as of August 23, 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 \$306.33 for utilities owed for BC Hydro, Fortis Gas and Shaw cable. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant 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: August 24, 2016

Residential Tenancy Branch