



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 October 14, 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 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on October 14, 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 tenants;
- A copy of a residential tenancy agreement which was signed by the landlord on January 16, 2014, and the tenant on January 22, 2014, indicating a monthly rent

in the amount of \$760.00 due on the first day of the month for a tenancy commencing on March 01, 2014;

- A copy of a receipt dated October 14, 2016, for \$1,100.00 of rent, paid by the tenant, which the landlord has indicated is “for use and occupancy only” and on which the landlord has indicated that the tenant must vacate the rental unit by October 31, 2016;
- A copy of a Notice of Rent Increase form showing the rent being increased to the current monthly rent amount of \$795.00;
- 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 October 04, 2016, and posted to the tenant's door on October 04, 2016, with a stated effective vacancy date of October 17, 2016, for \$1,240.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant's door at 3:30 p.m. on October 04, 2016. The 10 Day Notice states that the tenant 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 October 07, 2016, three days after its posting.

I find that the tenant was obligated to pay the monthly rent in the amount of \$795.00, as per the tenancy agreement and the Notice of Rent Increase form.

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, October 17, 2016.

In order to claim for additional rent, beyond the current monthly rent amount owed, the Monetary Order Worksheet must clearly show any additional months that the tenant still owes rent for. I find that the Monetary Order Worksheet does not break down the rent owing from any months previous to September 2016, thereby making the Worksheet incomplete.

For the above reason, the monetary portion of the landlord's application is dismissed with leave to reapply.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for October 2016 as of October 13, 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.

I dismiss the landlord's application for a monetary Order, 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 18, 2016

Residential Tenancy Branch

