



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. The Proofs of Service declares that on November 5, 2016, the landlords served each of the tenants with a Notice of Direct Request Proceeding by registered mail. The landlords have provided two Canada Post receipts which include two separate tracking numbers. Based on the written submission of the landlords and in accordance with section 89, I find that both tenants have been duly served with the Direct Request Proceeding documents on November 10, 2016, the 5th day after the documents were mailed.

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:

- Proofs of Service of the Notices of Direct Request Proceeding served to both tenants;
- A copy of a residential tenancy agreement signed by the landlords and tenants on September 15, 2016, indicating a monthly rent in the amount of \$1,700.00, due on the first day of the month for a tenancy commencing on September 01, 2016;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 23, 2016 with a stated effective vacancy date of November 2, 2016, for \$2,400.00 in unpaid rent;
- A Proof of Service of the 10 Day Notice dated October 23, 2016 stating that the 10 Day Notice was served personally on the tenant, D.B. by the landlord N.W. in the presence of a third party witness; and
- A Monetary Order Worksheet showing the rent owing and paid during this tenancy.

Analysis

Section 88(e) of the *Act* allows a landlord to serve a 10 Day Notice to tenants by leaving a copy with an adult who resides with the person. On this basis, I find that the 10 Day Notice served to Tenant D.B. on October 23, 2016 is also considered to have been served to Tenant T.E. on that date. I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the tenants were served personally with the 10 Day Notice on October 23, 2016.

I find that the tenants were obligated to pay the monthly rent in the amount of \$1,700.00, 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 Notice 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 corrected effective date of the 10 Day Notice, November 3, 2016.

Therefore, I find that the landlords are entitled to an Order of Possession and a monetary Order against the tenants in the amount of \$2,400.00, the amount claimed by the landlords, for unpaid rent owing for September, 2016 and October 2016.

Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenants. Should the tenants 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 \$2,400.00 for rent owed for September, 2016 and October 2016. The landlords are 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: November 14, 2016

Residential Tenancy Branch