



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 has named three parties in the Application for Dispute Resolution by Direct Request (the “Application”), and has submitted three corresponding Proof of Service of Notice of Direct Request Proceeding documents evidencing that on November 8, 2016 he served the three parties the Notices of Direct Request Proceeding by registered mail to the rental unit. The landlord also provided copies of the Canada Post customer receipts containing the tracking numbers for the registered mail. In accordance with sections 89 and 90 of the *Act*, the respondents are deemed to have been served with the Notices of Direct Request Proceeding documents on November 12, the fifth day after 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

In addition to the Application and the Proof of Service documents referenced above, the landlord submitted the following relevant materials:

- A copy of a residential tenancy agreement signed on July 13, 2016 by the landlord and one of the three parties named in the Application, indicating a monthly rent of \$2,600.00 due on the first day of the month for a one year fixed term tenancy commencing on July 15, 2016;
- A Direct Request Worksheet showing the rent owing and paid during this tenancy;
- A copy of a 10 Day Notice for Unpaid Rent dated November 2, 2016 with a stated effective vacancy date of November 12, 2016, for \$1,900.00 in unpaid rent; and
- A Proof of Service of the 10 Day Notice signed by the one party who has signed the residential tenancy agreement. The Proof of Service of the 10 Day Notice states that the Notice to End Tenancy was hand delivered to that tenant on November 2, 2016, and that is confirmed by the tenant's signature as well as by the signature of a witness.

Analysis

I have reviewed all documentary evidence and find that the tenant who has signed the tenancy agreement was duly served with the 10 Day Notice on November 2, 2016 in accordance with section 88 of the *Act*.

I find that the tenant was obligated to pay the monthly rent in the amount of \$2,600.00 as per the tenancy agreement.

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 that \$1,900.00 of this November's rent was outstanding as of the date of the landlord's Application. I also accept that the tenant 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: November 12, 2016.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order in the amount claimed of \$1,900.000 for unpaid rent owing for November 1, 2016 as of November 2, 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 \$1,900.00 for rent owed for November, 2016. 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: November 14, 2016

Residential Tenancy Branch