



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 November 15, 2016, the landlord served the tenant the Notice of Direct Request Proceeding by registered mail. The landlord has provided a Canada Post receipt including a tracking number. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the Act, I find that the tenant has been deemed served with the Notice of Direct Request Proceeding on November 20, 2016, the fifth day after the registered 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

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 July 1st, 2008, indicating a monthly rent of \$900.00 due on the first day of the month for a tenancy commencing on July 1st, 2008;
- A Monetary Order Worksheet showing the rent owing and paid during the most recent two months of this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated November 6, 2016, with a stated effective vacancy date of November 15, 2016, for \$1,750.00 in unpaid rent.

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 November 9, 2016, the third day after being posted on the front door.

I find that the tenant was obligated to pay the monthly rent in the amount of \$900.00 as per the signed 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* nor did they 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 November 19, 2016.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary order in the amount of \$1,750.00, the amount claimed by the landlord, for unpaid rent still owing as of November 15, 2016, the date of the landlord's application.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant 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 \$1,750.00 for rent owed for October, 2016 and 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 21, 2016

Residential Tenancy Branch