



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.

The landlord submitted signed Proofs of Service of the Notices of Direct Request Proceeding which declares that on November 14, 2016 the landlord served both tenants the Notices of Direct Request Proceeding by way of Registered Mail to the address at which they reside. Based on the written submission of the landlord and in accordance with section 89, I find that the tenants have been duly served with the Direct Request Proceeding documents on November 19, 2016, 5 days after the Notice was sent.

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 Proofs of Service of the Notices of Direct Request Proceeding served to the tenants;
- A copy of a residential tenancy agreement which was signed by the landlord on October 26, 2016, and the tenants on November 1, 2016, indicating a monthly rent of \$2,200.00, due on the first day of the month for a tenancy commencing on November 01, 2016.
- A Monetary Order Worksheet showing the rent owing during this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated November 04, 2016, which the landlord personally served to Tenant KRH. The landlord had a witness sign the Proof of Service of the Notice to End Tenancy to confirm personal service.

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 subsections 88 (a) and (e) of the *Act*, I find that the tenants were served with the 10 Day Notice on November 04, 2016, the day it was personally served to Tenant KRH. I find that the tenants were obligated to pay the monthly rent in the amount of \$2,200.00 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 will end on the effective date of the 10 Day Notice, which is November 14, 2016. Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for November 2016 as of November 14, 2016. I also find that the landlord is entitled to a Monetary Order in the amount of \$2,200.00.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). 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 \$2,200.00 for rent owed as of November 2016. The landlord is provided with this Order in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) 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