



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 signed Proof of Service of the Notices of Direct Request Proceeding which declares that on November 16, 2016 the landlord served the tenant the Notice of Direct Request Proceeding by way of Registered Mail to the address at which he resides. Based on the written submission of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on November 21, 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 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 June 07, 2016 indicating a monthly rent of \$2,107.00 due by 1pm on the last day of the month for a tenancy commencing on July 01, 2016.
- A Monetary Order Worksheet showing the rent owing and paid during the latter portion of this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated November 06, 2016, and posted to the tenant's door on November 06, 2016, with a stated effective vacancy date of November 16, 2016, for \$887.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant's door at 12:45 pm on November 06, 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 November 09, 2016, three days after its posting.

I find that the tenant was obligated to pay the monthly rent in the amount of \$2,107.00, 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 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 16, 2016. Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for November 2016 as of November 16, 2016.

I have reviewed all documentary evidence and I find that the balance of rent owed, \$887.00 to be incorrect. \$2,107.00 is indicated on the Direct Request Worksheet as the rent amount owing. The amount of partial payment received from the tenant on that

Worksheet is identified as \$1,274.98. Accordingly, I find that the landlord is entitled to a Monetary Order in the adjusted amount of \$832.02.

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 \$832.02 for rent owed as of November 16, 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(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