



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LANGARA GARDENS HOLDINGS LTD
[tenant name suppressed to protect privacy]

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 landlord submitted two signed Proofs of Service of the Notices of Direct Request Proceeding. The Proofs of Service declares that on November 16, 2016, the landlord served each of the tenants with a Notice of Direct Request Proceeding by registered mail. The landlord has 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 21, 2016, the 5th day after the documents were mailed.

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:

- Proofs of Service of the Notices of Direct Request Proceeding served to both tenants;

- A copy of a residential tenancy agreement signed by the landlord and tenants on February 18, 2014, indicating a monthly rent in the amount of \$1,775.00, due on the first day of the month for a tenancy commencing on February 20, 2014;
- Copies of two Notices of Rent Increase, the first signed by the landlord on November 24, 2014 indicating that the monthly rent increases from \$1,775.00 to \$1,785.00 commencing March 1, 2015 and the second signed by the landlord on November 18, 2015 indicating that the monthly rent increases from \$1,785.00 to \$1,836.00 commencing March 1, 2016;
- A Monetary Order Worksheet showing the rent owing and paid during for the month of November;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated November 3, 2016 with a stated effective vacancy date of November 16, 2016, for \$1,836.00 in unpaid rent; and
- A Proof of Service of the 10 Day Notice dated November 3, 2016 indicating that the 10 Day Notice was left in the mailbox at the tenant's residence at 4:17pm on November 3, 2016 in the presence of a third party witness.

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 6, 2016, three days after being placed in the mail slot of the tenant. In the Proof of Service of the 10 Day Notice form the landlord indicated that service was completed both by attaching a copy on the door or other conspicuous place and leaving a copy in the mail box or mail slot at the tenant's residence. However, as the landlord's witness only attests to service being made by a copy of the 10 Day Notice being left in the mail box or mail slot of the tenant's residence I find that service was enacted by that method as confirmed by the landlord's witness and in accordance with the requirements of the *Act*.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,836.00 as per the tenancy agreement and the Notice of Rent Increase forms. 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 and Monetary Order for unpaid rent owing for November, 2016 of \$1,836.00 as at November 16, 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 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 \$1,836.00 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 22, 2016

Residential Tenancy Branch