



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

This hearing, adjourned from a Direct Request process in which a decision is made based solely on the written evidence submitted by the landlord, dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent pursuant to section 55; and
- a monetary order for unpaid rent pursuant to section 67.

The tenant did not attend this hearing, which lasted approximately 30 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding stating that on October 27, 2016, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. In accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on November 01, 2016, the fifth day after their registered mailing.

The landlord testified that the Interim Decision of the Residential Tenancy Branch adjourning the Direct Request process to a participatory hearing was received on November 7, 2016. The landlord testified that the Interim Decision and Notice of Participatory Hearing were served on the tenant on that same date by posting it on the rental unit door. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with notice of the participatory hearing on November 10, 2016, three days after its posting.

During the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlord testified that there were errors in the calculation of the claim and that the corrected amount of the rental arrears as at the

date of the hearing is \$3,400.00. Pursuant to section 64(3)(c) of the *Act*, I amend the landlord's Application to decrease the landlord's monetary claim to \$3,400.00.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The landlord provided testimony regarding the following facts. This month-to-month tenancy began in December, 2015. The current rent is \$340.00 payable on the 1st of the month. The tenant continued to reside in the rental unit at the time of the hearing.

The landlord provided testimony that the tenant has failed to pay the rental amount since January, 2016. It is the landlord's evidence that the total amount of arrears for this tenancy is \$3,400.00.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated October 17, 2016 (the "10 Day Notice"), on October 27, 2016 by posting the notice on the rental unit door. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 10 Day Notice on October 30, 2016, three days after its posting.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I find that the tenant was obligated to pay the monthly rent in the amount of \$340.00. I accept the landlord's evidence that the tenant failed to pay the full rent due within the five days of service granted under section 46(4) of the *Act* nor did they dispute the 10 Day Notice within that five day period. Accordingly, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, November 9, 2016.

I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy as of November 28, 2016 the date of the hearing is \$3,400.00.

Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act* and a Monetary Order for unpaid rent owing of \$3,400.00 as at November 28, 2016, pursuant to section 67 of the *Act*.

Conclusion

The landlord's application is successful.

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlord's favour in the amount of \$3,400.00 against the tenant. 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 29, 2016

Residential Tenancy Branch