



Dispute Resolution Services

Page: 1

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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 14, 2016, the landlords sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlords provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlords and 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 December 19, 2016, the fifth day after their registered mailing.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Background and Evidence

The landlords 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 April 20, 2016, indicating a monthly rent of \$800.00, due on the first day of the month for a tenancy commencing on May 1, 2016;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated December 5, 2016, and posted to the tenant's door on December 5, 2016, with a stated effective vacancy date of January 1, 2017, for \$800.00 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the 10 Day Notice was posted to the tenant's door at 7:15 pm on December 5, 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 December 8, 2016, three days after its posting.

I find that the tenant was obligated to pay the monthly rent in the amount of \$800.00, 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.

Section 68 of the *Act* allows for the 10 Day Notice to be amended when it is reasonable to do so. I note that there was a typographical error on the effective date of the 10 Day Notice, which is for a date in the year 2017. I find it reasonable that the landlords intended the date to read 2017. For this reason, I have amended the effective date of the 10 Day Notice to reflect the intended date of January 1, 2017.

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 will end on the corrected effective date of the 10 Day Notice, January 1, 2017.

Therefore, I find that the landlords are entitled to an Order of Possession and a Monetary Order in the amount of \$800.00, the amount claimed by the landlords, for unpaid rent owing for December 2016 as of December 14, 2016.

Conclusion

I grant an Order of Possession to the landlords effective on **January 1, 2017, 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 landlords are entitled to a Monetary Order in the amount of \$800.00 for rent owed for December 2016. The landlords are 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: December 20, 2016

Residential Tenancy Branch