



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MEICOR PROPERTY MANAGEMENT
and [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 landlord 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 which declare that on December 19, 2016, the landlord sent the tenants the Notices 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 Numbers to confirm these mailings. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenants have been deemed served with the Direct Request Proceeding documents on December 24, 2016, the fifth day after their registered mailing.

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 and the tenants on April 5, 2016, indicating a monthly rent of \$825.00, due on the first day of the month for a tenancy commencing on April 5, 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 2, 2016, and posted to the tenants' door on December 2, 2016, with a stated effective vacancy date of December 15, 2016, for \$825.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenants' door at 11:00 am on December 2, 2016. The 10 Day Notice states that Tenant M.B. 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

Section 52 of the Act provides the following requirements regarding the form and content of notices to end tenancy:

52 *In order to be effective, a notice to end a tenancy must be in writing and must*

(a) be signed and dated by the landlord or tenant giving the notice,

(b) give the address of the rental unit,

(c) state the effective date of the notice,...and

(e) when given by a landlord, be in the approved form...

I have reviewed all documentary evidence and I find that Tenant P.B. is not named on the 10 Day Notice. I find that this omission invalidates the 10 Day Notice for Tenant P.B. as the landlord has not complied with the provisions of section 52 of the Act

Therefore, I dismiss the landlord's application to obtain an Order of Possession against Tenant P.B., without leave to reapply.

For the same reasons identified in the 10 Day Notice the landlord's application for a Monetary Order against Tenant P.B. is dismissed, with leave to reapply.

However, in accordance with sections 88 and 90 of the *Act*, I find that Tenant M.B. was deemed served with the 10 Day Notice on December 5, 2016, three days after its posting.

I find that Tenant M.B. was obligated to pay the monthly rent in the amount of \$825.00, as per the tenancy agreement.

I accept the evidence before me that Tenant M.B. 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 Tenant M.B. 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, December 15, 2016.

Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$825.00, the amount claimed by the landlord, for unpaid rent owing for December 2016 as of December 18, 2016.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on Tenant M.B. Should Tenant M.B. 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 \$825.00 for rent owed for December 2016. The landlord is provided with this Order in the above terms and Tenant M.B. must be served with **this Order** as soon as possible. Should Tenant M.B. 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.

I dismiss the landlord's application for an Order of Possession naming Tenant P.B. without leave to reapply.

I dismiss the landlord's application for a Monetary Order naming Tenant P.B. with leave to reapply.

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 29, 2016

Residential Tenancy Branch