



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

EX PARTE PROCEEDING

(DIRECT REQUEST PROCEEDING)

Pursuant to section 55(4) of the *Residential Tenancy Act*, the decision in this matter was made without a participatory hearing. The decision was based on an undisputed 10 day Notice to End Tenancy and the written submissions of the Landlords.

DECISION

Dispute Codes OPR

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.

The landlords submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on January 12, 2017, the landlords posted the Notices of Direct Request Proceeding to the door of the rental unit. The landlords had a witness sign the Proofs of Service of the Notices of Direct Request Proceeding to confirm this service. Based on the written submissions of the landlords and in accordance with sections 89 (2) and 90 of the *Act*, I find that the tenants have been deemed served with the Direct Request Proceeding documents on January 15, 2017, the third day after their posting.

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*?

Background and Evidence

The landlords 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 Landlord C.D. and Tenant A.S. on November 30, 2016, by Landlord J.D. on November 20, 2016, and by Tenant B.E. on December 1, 2016, indicating a monthly rent of \$2,200.00, due on the first day of the month for a tenancy commencing on December 1, 2016;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy;
- The Monetary Order Worksheet noted that \$540.00 of the \$2,200.00 identified as owing in the 10 Day Notice was paid on January 6, 2017; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated January 3, 2017, and posted to the tenants' door on January 3, 2017, with a stated effective vacancy date of January 16, 2017, for \$2,200.00 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the 10 Day Notice was posted to the tenants' door at 3:00 pm on January 3, 2017. The 10 Day Notice states that the tenants 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 tenants were deemed served with the 10 Day Notice on January 6, 2017, three days after its posting.

I find that the tenants were obligated to pay the monthly rent in the amount of \$2,200.00, as per the tenancy agreement.

I accept the evidence before me that the tenants have 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 tenants are 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, January 16, 2017.

Therefore, I find that the landlords are entitled to an Order of Possession for unpaid rent owing as of January 12, 2017.

Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenants. Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: January 16, 2017

Residential Tenancy Branch