



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 landlord for an Order of Possession based on unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 24, 2017, the landlord personally served Tenant G.A. the Notice of Direct Request Proceeding. The landlord had Tenant G.A. and a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submissions of the landlord and in accordance with section 89 of the *Act*, I find that Tenant G.A. has been duly served with the Direct Request Proceeding documents on February 24, 2017.

The landlord submitted a second signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 24, 2017, the landlord served Tenant E.Q. by posting the Notice of Direct Request Proceeding to the door of the rental unit. The landlord had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that Tenant E.Q. has been deemed served with the Direct Request Proceeding documents on February 27, 2017, the third day after their posting.

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*?

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 11, 2016, indicating a monthly rent of \$3,000.00, 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 February 2, 2017, and posted to the tenants' door on February 2, 2017, with a stated effective vacancy date of February 15, 2017, for \$3,000.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenants' door at 11:35 am on February 2, 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 February 5, 2017, three days after its posting.

I find that the tenants were obligated to pay the monthly rent in the amount of \$3,000.00, 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, February 15, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for February 2017 as of February 16, 2017.

Conclusion

I grant an Order of Possession to the landlord 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: February 28, 2017

Residential Tenancy Branch