



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WEST COAST HOME REPAIR
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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 22, 2017, 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 Number to confirm the mailing to Tenant T.S. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that Tenant T.S. has been deemed served with the Direct Request Proceeding documents on March 27, 2017, the fifth day after their registered mailing.

The landlord has not provided a copy of the Canada Post Customer Receipt to confirm the mailing to Tenant S.S. and has not established that tenant S.S. has been served the Notice of Direct Request Proceeding. Therefore, I dismiss the landlord’s application against the tenant S.S. with leave to reapply.

I will hear the landlord’s application against tenant T.S.

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 Proof of Service of the Notice of Direct Request Proceeding served to Tenant T.S.;
- A copy of a residential tenancy agreement which was signed by Tenant T.S. on September 1, 2016, indicating a monthly rent of \$1,650.00, due on the first day of the month for a tenancy commencing on September 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 March 10, 2017, and posted to Tenant T.S.'s door on March 10, 2017, with a stated effective vacancy date of March 16, 2017, for \$1,700.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to Tenant T.S.'s door at 5:45 pm on March 10, 2017. The 10 Day Notice states that Tenant T.S. 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 Tenant T.S. was deemed served with the 10 Day Notice on March 13, 2017, three days after its posting.

I note that the amount of rent on the tenancy agreement does not match the amount of rent being claimed on the 10 Day Notice. If there has been a rent increase, the appropriate Notice of Rent Increase forms must be submitted with the Application for Dispute Resolution to substantiate the claim for the increased rent; or the Monetary Order Worksheet must clearly show any additional months for which the tenant still owes rent.

For this reason, the landlord's application for a Monetary Order is dismissed with leave to reapply.

However, I accept the evidence before me that Tenant T.S. 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 T.S. 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, March 23, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for March 2017 as of March 21, 2017.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on Tenant T.S. Should Tenant T.S. and any other occupant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I dismiss the landlord's application for a Monetary Order 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: March 29, 2017

Residential Tenancy Branch