



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CHERRY CREEK PROPERTY SERVICES LTD
and [tenant name suppressed to protect privacy]

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 April 18, 2017, the landlord sent the tenant the Notice 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 this mailing. Based on the written submissions of the landlord 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 April 23, 2017, 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*?

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 the tenant;
- A copy of a residential tenancy agreement which was signed by landlords who are not the applicant and the tenant on September 16, 2016, indicating a monthly

rent of \$1,665.00, due on the first day of the month for a tenancy commencing on October 1, 2016;

- A copy of a Rental Management Agreement showing the transfer of management responsibilities from the former landlord, who is named on the residential tenancy agreement, to the current landlord who is applying for dispute resolution;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy;
- The Monetary Order Worksheet noted that \$1,000.00 of the \$1,665.00 identified as owing in the 10 Day Notice was paid on April 5, 2017; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated April 5, 2017, and personally served to the tenant on April 5, 2017, with a stated effective vacancy date of April 16, 2017, for \$1,665.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was personally served to the tenant at 7:30 pm on April 5, 2017. 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 section 88 of the *Act*, I find that the tenant was duly served with the 10 Day Notice on April 5, 2017.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,665.00, 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.

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 ended on the effective date of the 10 Day Notice, April 16, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for April 2017 as of April 18, 2017.

Conclusion

I grant an Order of Possession to the landlord effective **two days 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.

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: April 24, 2017

Residential Tenancy Branch