



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on May 18, 2017, the landlords sent the tenants the Notices of Direct Request Proceeding by registered mail to the rental unit. The landlords provided a copy of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlords 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 May 23, 2017, the fifth day after their registered mailing.

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*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 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 the landlord on October 13, 2016 and the tenants on October 12, 2016, indicating a monthly rent of \$1,300.00, due on the first day of the month for a tenancy commencing on October 15, 2016;
- A copy of a demand letter from the landlords to the tenants, dated March 29, 2017, requesting payment of utilities in the amount of \$555.02;
- Two copies of utility bills from Fortis BC for the rental unit dated February 20, 2017 for \$805.03, and March 17, 2017 for \$140.55 totaling \$945.58;
- A copy of a utility bills from BC Hydro for the rental unit dated March 8, 2017 for \$719.49;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated May 2, 2017, and posted to the tenants' door on May 2, 2017, with a stated effective vacancy date of May 12, 2017, for \$2,600.00 in unpaid rent and \$555.02 in unpaid utilities.

Witnessed documentary evidence filed by the landlords indicates that the 10 Day Notice was posted to the tenants' door at 2:40 pm on May 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 May 5, 2017, three days after its posting.

I find that the tenants were obligated to pay the monthly rent in the amount of \$1,300.00, as per the tenancy agreement.

I find that the tenants were obligated to pay 1/3 of the utilities as per the tenancy agreement.

I accept the evidence before me that the tenants have failed to pay the rent and utilities 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 corrected effective date of the 10 Day Notice, May 15, 2017.

Therefore, I find that the landlords are entitled to an Order of Possession and a Monetary Order in the amount of \$3,155.02, the amount claimed by the landlord, for unpaid rent owing for April 2017 and May 2017 and unpaid utilities owing for February 2017 and March 2017 as of May 17, 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.

Pursuant to section 67 of the *Act*, I find that the landlords are entitled to a Monetary Order in the amount of \$3,155.02 for rent owed for April 2017 and May 2017 and utilities owed for February 2017 and March 2017. The landlords are provided with this Order in the above terms and the tenants must be served with **this Order** as soon as possible. Should the tenants 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.

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: May 24, 2017

Residential Tenancy Branch