



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;

This application was originally heard by way of a Direct Request Proceeding and on May 2, 2017 an interim decision was issued adjourning the application to be reconvened at a participatory hearing.

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 9:20 a.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 9:00 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, present evidence and make submissions.

The landlord testified that on May 3, 2017, copies of the Application for Dispute Resolution including the Notice of Hearing and Interim Decision were sent to all three tenants by registered mail. The landlord provided registered mail tracking numbers in support of service.

Based on the above evidence, I am satisfied that the tenants were deemed served with the Application for Dispute Resolution, Notice of Hearing and Interim Decision pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenants.

Issues

Is the landlord entitled to an order of possession for pursuant to a 10 Day Notice to End Tenancy for unpaid rent (the 10 Day Notice)?

Is the landlord entitled to a monetary award for unpaid rent?

Background and Evidence

The tenancy began on September 15, 2016 with a monthly rent of \$1700.00 payable on the 1st day of each month. The tenant paid a security deposit of \$850.00 at the start of the tenancy but the landlord testified he has since returned the security deposit as incentive for the tenants to move. He believes two of the three tenants have since vacated and as of May 19, 2017 the last remaining tenant advised him that she had vacated. The landlord testified that he has not yet been able to confirm if she has in fact vacated as has been out of town.

The landlord testified that on April 3, 2017 he sent a copy of the 10 Day Notice to the tenants by registered mail. The landlord provided a registered mail tracking number in support of service of the 10 Day Notice.

The landlord's monetary claim is for outstanding rent in the amount of \$1700.00. The landlord testified that this includes unpaid rent for the month of April 2017. The landlord testified the tenants have still not paid this outstanding amount.

Analysis

I am satisfied that the tenants were deemed served with the 10 Day Notice on April 8, 2017, five days after its mailing, pursuant to sections 88 & 90 of the Act.

Section 46 of the Act requires that upon receipt of a 10 Day Notice the tenant must, within five days, either pay the full amount of the arrears indicated on the 10 Day Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the 10 Day Notice, April 18, 2017.

I find that the 10 Day Notice issued by the landlord complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I accept the landlord's uncontested evidence and claim for outstanding rent of \$1700.00 and issue the landlord a Monetary Order for this amount.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. 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 grant the landlord a Monetary Order in the amount of \$1700.00. 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: June 09, 2017

Residential Tenancy Branch