



Dispute Resolution Services

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Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding Capilano Property Management Services
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 July 20, 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 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 July 25, 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 the landlord and the tenant on October 22, 2014, indicating a monthly rent of \$735.00, due on the first day of each month for a tenancy commencing on November 16, 2014;
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 4, 2017, and posted to the tenant’s door on July 4, 2017, at 10:00 am with a stated effective vacancy date of July 14, 2017, for \$410.00 in unpaid rent;
- A Proof of Service – Notice to End Tenancy document, which specifies that the 10-Day Notice was served to the tenant at 10:00 am on July 4, 2017, by attaching a copy to the door. Service of this document was witnessed by an individual with the initials G.R.; and

- Two Notices of Rent Increase bringing the initial rent in 2014 from \$735.00 up to the current rent of \$770.00.

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 sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on July 7, 2017, three days after its posting.

After reviewing the landlord's evidence, including the Direct Request Worksheet, I find that the tenant was obligated to pay the monthly rent in the amount of \$770.00, as per the tenancy agreement. As per the Direct Request Worksheet, the tenant paid \$360.00 on July 1, 2017, and paid the remaining \$410.00 on July 18, 2017.

I accept the evidence before me that the tenant has failed to pay the rent owed in full for the month of July 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 corrected effective date of the 10 Day Notice, July 17, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent for the month of July 2017, as of July 19, 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(s) 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: July 26, 2017

Residential Tenancy Branch