



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, 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 and a Monetary Order.

The landlord submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on July 20, 2017, the landlord sent each of the tenants a copy of the Notice of Direct Request Proceeding by registered mail. The landlord provided a copy of both of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlord 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 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*?

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 relevant evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to each tenant;
- A copy of the registered mail receipts from Canada Post for each of the Notice of Direct Request Proceeding packages served to the tenants;

- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on November 22, 2016, indicating a monthly rent of \$1300.00 due on the 1st day of the month for a tenancy commencing on November 23, 2016;
- A Direct Request Worksheet showing the rent owing for July 2017;
- A written statement explaining the discrepancy in the amount of rent noted on the 10 Day Notice and the amount claimed for unpaid rent on the Direct Request Worksheet;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice), dated July 7, 2017 and posted on the door of the rental unit on July 7, 2017, with a stated effective vacancy date of July 20, 2017, for \$1350.00 in unpaid rent;
- A witnessed Proof of Service of the 10 Day Notice indicating that the notice was served by posting the 10 Day Notice to the door of the rental unit at 9:45 a.m. on July 7, 2017.

The 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. The tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

I have reviewed all documentary evidence and accept that in accordance with sections 88 and 90 of the *Act*, the tenants were deemed served with this 10 Day Notice on July 10, 2017, three days after its posting.

I accept the evidence before me that the tenants have failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

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 effective date of the 10 Day Notice, July 20, 2017.

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. However, the landlord submitted a written statement that the amount of \$1350.00 noted on the 10 Day Notice included an NSF-Late fee, and clarified that they are only seeking a Monetary Order in the amount of

\$1300.00 for unpaid rent. The Direct Request Worksheet also lists only the \$1300.00 in unpaid rent for July, 2017.

As a result of the above analysis, I find that the landlord is entitled to an Order of Possession and a Monetary Order of \$1300.00 for unpaid rent owing for July, 2017.

Conclusion

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenants. The landlord is 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 and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I find that the landlord is entitled to a Monetary Order in the amount of \$1300.00 for rent owed for July, 2017. The landlord is 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, it 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: July 26, 2017

Residential Tenancy Branch