



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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 20, 2017, the landlord personally served the tenant the Notice of Direct Request Proceeding. The landlord had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submissions of the landlord and in accordance with section 89 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on July 20, 2017, the day they were personally served to them.

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 the tenant;

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on January 1, 2017, indicating a monthly rent of \$1035.00, due on the first day of each month for a tenancy commencing on January 1, 2017;
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy;
- A copy of a receipt dated July 12, 2017, in the amount of \$320.00, for rent paid by the tenant, which the landlord has indicated is “for use and occupancy only”;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 3, 2017, and posted to the tenant’s door on July 3, 2017, with a stated effective vacancy date of July 13, 2017, for \$1095.00 in unpaid rent; and
- 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 6:25 p.m. on July 12, 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 sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on July 6, 2017, three days after its posting.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1035.00, as per the tenancy agreement.

The Direct Request Worksheet completed by the landlord indicates that as of July 3, 2017, the date the 10 Day Notice was issued, the tenant owed \$1095.00 in unpaid rent for June, 2017, and July, 2017. The Direct Request Worksheet indicates that after the issuance of the 10 Day Notice, partial rent was paid by the tenant to the landlord on July 12, 2017, in the amount of \$320.00, for “for use and occupancy only”. As a result, I find that at the time the landlord filed their application for dispute resolution by direct request, they were claiming \$775.00 in unpaid rent from the tenant.

As there is no evidence before me to the contrary, I accept the evidence before me that the tenant has failed to pay the rent owed in full as outlined above 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 16, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$775.00, the amount claimed by the landlord as of July 20, 2017, for unpaid rent.

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 tenant. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. 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.

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$775.00 for rent owed for June, 2017 and July, 2017. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant 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: July 27, 2017

Residential Tenancy Branch