



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 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 27, 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 submission 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 27, 2017, the day they were personally served to her.

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 evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on March 18, 2016, indicating a monthly rent of \$1,200.00, due on the first day of each month for a tenancy commencing on April 01, 2016;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 03, 2017 with a stated effective vacancy date of July 15, 2017, for \$1,000.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant's door at 3:00 p.m. on July 03, 2017. The 10 Day Notice states that the tenant had five days from the date received 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 06, 2017, three days after its posting.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,200.00, as per the tenancy agreement.

I accept the evidence before me that the tenant has failed to pay the rent 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 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, pursuant to Section 53 of the *Act*. Therefore, I find that the landlord is entitled to an Order of Possession

The Instructions for an Application for Dispute Resolution by Direct Request and RTB Policy Guideline #39 set out that certain requirements must be met in order for the landlord's Application to be considered using the Direct Request process. One of these requirements is that a Direct Request Worksheet (form RTB-46) be completed. I find that the landlord did not provide a Direct Request Worksheet (form RTB-46); however, the landlord did provide an explanation of the amount owing in the Application.

In relation to the monetary claim for \$1,000.00, there is insufficient details/evidence submitted with the Application to explain how this amount was calculated. Although the landlord provided an explanation of the monetary claim in the detail section of the Application, there is no specific detail with regard to when payments were made, whether a portion of the \$1,000.00 amount identified as owing in the 10 Day Notice included an unpaid portion of the security deposit, and a detailed breakdown of how the

amount of \$1,000.00 became owing. For these reasons, the monetary portion of the landlord's Application is dismissed, with leave to re-apply.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. 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.

I dismiss the landlord's claim for a monetary order with leave to re-apply.

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: August 02, 2017

Residential Tenancy Branch