



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 August 10, 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 containing the Tracking Number 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 August 15, 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 a residential tenancy agreement which was signed by the landlord and the tenant on April 01, 2011, indicating a monthly rent of \$1,250.00, due on the first day of the month, with a move in date of May 01, 2011;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 13th, and sent by registered mail to the tenant on July 13, 2017, with a stated effective vacancy date of July 17, 2017, for \$5,220.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the 10 Day Notice was sent by registered mail to the tenant on July 13, 2017. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. The 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 18, 2017, the fifth day after its mailing.

Section 68 of the *Act* allows for the 10 Day Notice to be amended when it is reasonable to do so. I find that the date of the 10 Day Notice is incomplete, although the Notice was given to the tenant for rent owing in the month and year that it was received. For this reason, I have amended the date of the 10 Day Notice to reflect the day it was sent to the tenant by registered mail, July 13, 2017.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,250.00 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 28, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing as of August 10, 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: August 16, 2017

Residential Tenancy Branch